

HOUSE BILL No. 2597

By Committee on Utilities and Telecommunications

2-3

1 AN ACT concerning telecommunications; relating to rural telephone
2 companies; universal service support, recovery of costs; amending
3 K.S.A. 66-2001 and K.S.A. 2015 Supp. 66-1,187, 66-2005, 66-2008
4 and 66-2017 and repealing the existing sections.

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

7 Section 1. K.S.A. 2015 Supp. 66-1,187 is hereby amended to read as
8 follows: 66-1,187. As used in this act:

9 (a) "Broadband" means the transmission of digital signals at rates
10 equal to or greater than ~~1.5~~ 10 megabits per second *download and one*
11 *megabit per second upload.*

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

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

17 (d) "Dialing parity" means that a person that is not an affiliate of a
18 local exchange carrier is able to provide telecommunications services in
19 such a manner that customers have the ability to route automatically,
20 without the use of any access code, their telecommunications to the
21 telecommunications carrier of the customer's designation from among two
22 or more telecommunications carriers, including such local exchange
23 carrier.

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

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

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

31 (h) "Local exchange carrier" means any telecommunications public
32 utility or its successor, not to include an electing carrier, providing
33 switched telecommunications service within any local exchange service
34 area, as approved by the commission on or before January 1, 1996.
35 However, with respect to the Hill City exchange area, in which multiple
36 carriers were certified by the commission prior to January 1, 1996, the

1 commission's determination, subject to any court appeals, of which
2 authorized carrier shall serve as the carrier of last resort will determine
3 which carrier shall be deemed the local exchange carrier for that exchange.

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

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

10 (k) "Operating area" means:

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

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

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

20 (m) "Telecommunications carrier" means a corporation, company,
21 individual, association of persons, their trustees, lessees or receivers that
22 provides a telecommunications service, including, but not limited to,
23 interexchange carriers and competitive access providers, but not including
24 local exchange carriers certified before January 1, 1996.

25 (n) "Telecommunications public utility" means any public utility, as
26 defined in K.S.A. 66-104, and amendments thereto, which owns, controls,
27 operates or manages any equipment, plant or generating machinery, or any
28 part thereof, for the transmission of telephone messages, as defined in
29 K.S.A. 66-104, and amendments thereto, or the provision of
30 telecommunications services in or throughout any part of Kansas.

31 (o) "Telecommunications service" means the provision of a service
32 for the transmission of telephone messages, or two-way video or data
33 messages.

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

39 (q) "Enhanced universal service" means telecommunications services,
40 in addition to those included in universal service, which shall include:
41 Signaling system seven capability, with CLASS service capability; basic
42 and primary rate ISDN capability, or the technological equivalent; full-
43 fiber interconnectivity, or the technological equivalent, between central

1 offices; and broadband capable facilities to: All schools accredited
 2 pursuant to K.S.A. 72-1101 et seq., and amendments thereto; hospitals as
 3 defined in K.S.A. 65-425, and amendments thereto; public libraries; and
 4 state and local government facilities which request broadband services.

5 Sec. 2. K.S.A. 66-2001 is hereby amended to read as follows: 66-
 6 2001. It is hereby declared to be the public policy of the state to:

7 (a) Ensure that every Kansan will have access to a first class
 8 telecommunications infrastructure that provides excellent services at an
 9 affordable price;

10 (b) ensure that consumers throughout the state realize the benefits of
 11 competition through increased services and improved telecommunications
 12 facilities and infrastructure at reduced rates;

13 (c) promote consumer access to a full range of telecommunications
 14 services, including advanced telecommunications services that are
 15 comparable in urban and rural areas throughout the state;

16 (d) advance the development of a statewide telecommunications
 17 infrastructure that is capable of supporting applications, such as public
 18 safety, telemedicine, services for persons with special needs, distance
 19 learning, public library services, access to internet providers and others;
 20 ~~and~~

21 (e) protect consumers of telecommunications services from
 22 fraudulent business practices and practices that are inconsistent with the
 23 public interest, convenience and necessity; *and*

24 *(f) promote local investment and the development and expansion of*
 25 *economic opportunities, through the statewide availability and ongoing*
 26 *enhancement of reliable and affordable broadband data and*
 27 *communications services.*

28 Sec. 3. K.S.A. 2015 Supp. 66-2005 is hereby amended to read as
 29 follows: 66-2005. (a) Each local exchange carrier shall file a network
 30 infrastructure plan with the commission on or after January 1, 1997, and
 31 prior to January 1, 1998. Each plan, as a part of universal service
 32 protection, shall include schedules, which shall be approved by the
 33 commission, for deployment of universal service capabilities by July 1,
 34 1998, and the deployment of enhanced universal service capabilities by
 35 July 1, 2003, as defined pursuant to ~~subsections (p) and (q)~~ of K.S.A. 66-
 36 1,187(p) *and (q)*, and amendments thereto, respectively. With respect to
 37 enhanced universal service, such schedules shall provide for deployment
 38 of ISDN, or its technological equivalent, or broadband facilities, only upon
 39 a firm customer order for such service, or for deployment of other
 40 enhanced universal services by a local exchange carrier. After receipt of
 41 such an order and upon completion of a deployment plan designed to meet
 42 the firm order or otherwise provide for the deployment of enhanced
 43 universal service, a local exchange carrier shall notify the commission.

1 The commission shall approve the plan unless the commission determines
2 that the proposed deployment plan is unnecessary, inappropriate, or not
3 cost effective, or would create an unreasonable or excessive demand on the
4 KUSF. The commission shall take action within 90 days. If the
5 commission fails to take action within 90 days, the deployment plan shall
6 be deemed approved. This approval process shall continue until July 1,
7 2000. Each plan shall demonstrate the capability of the local exchange
8 carrier to comply on an ongoing basis with quality of service standards to
9 be adopted by the commission no later than January 1, 1997.

10 (b) In order to protect universal service, facilitate the transition to
11 competitive markets and stimulate the construction of an advanced
12 telecommunications infrastructure, each local exchange carrier shall file a
13 regulatory reform plan at the same time as it files the network
14 infrastructure plan required in subsection (a). As part of its regulatory
15 reform plan, a local exchange carrier may elect traditional rate of return
16 regulation or price cap regulation. Carriers that elect price cap regulation
17 shall be exempt from rate base, rate of return and earnings regulation and
18 shall not be subject to the provisions of K.S.A. 66-136 and 66-127, and
19 amendments thereto, except as otherwise provided in such sections.
20 However, the commission may resume such regulation upon finding, after
21 a hearing, that a carrier that is subject to price cap regulation has: Violated
22 minimum quality of service standards pursuant to ~~subsection (f)~~ of K.S.A.
23 66-2002(l), and amendments thereto; been given reasonable notice and an
24 opportunity to correct the violation; and failed to do so. Regulatory reform
25 plans also shall include:

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

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

42 (c) Subject to the commission's approval, all local exchange carriers
43 shall reduce intrastate access charges to interstate levels as provided

1 herein. Rates for intrastate switched access, and the imputed access portion
2 of toll, shall be reduced over a three-year period with the objective of
3 equalizing interstate and intrastate rates in a revenue neutral, specific and
4 predictable manner. The commission is authorized to rebalance local
5 residential and business service rates to offset the intrastate access and toll
6 charge reductions. Any remaining portion of the reduction in access and
7 toll charges not recovered through local residential and business service
8 rates shall be paid out from the KUSF pursuant to K.S.A. 66-2008, and
9 amendments thereto. Each rural telephone company shall adjust its
10 intrastate switched access rates on March 1 of each odd-numbered year to
11 match its interstate switched access rates, subject to the following:

12 (1) Any reduction of a rural telephone company's cost recovery due to
13 reduction of its intrastate access revenue, except such revenue recovered
14 from another support mechanism, shall be recovered from the KUSF;

15 (2) any portion of rural telephone company reductions in intrastate
16 switched access rates which would result in an increase in KUSF recovery
17 in a single year which exceeds .75% of intrastate retail revenues used in
18 determining sums which may be recovered from Kansas
19 telecommunications customers pursuant to ~~subsection (a)~~ of K.S.A. 66-
20 2008(a), and amendments thereto, shall be deferred until March 1 of the
21 next following odd-numbered year; and

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

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

1 by the company. *The commission shall approve each application by a*
2 *rural telephone company to increase the company's local service rates in*
3 *an amount necessary for such company to maintain eligibility for full*
4 *federal universal service support. Any revenue resulting from any such*
5 *increase shall not be used as a basis to reduce such company's KUSF*
6 *support.*

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

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

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

21 (B) If a rural telephone company's present residential rate, including
22 any separate charge for tone dialing, is below such average: (i) Such rate
23 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,
24 2003, and prior to March 1, 2004, a rate \$2 higher than the company's
25 present residential monthly rate, but not exceeding such weighted mean,
26 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March
27 1, 2005, a rate \$4 higher than the company's present residential monthly
28 rate, but not exceeding such weighted mean, shall be deemed affordable;
29 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher
30 than the company's present residential monthly rate, but not exceeding
31 such weighted mean, shall be deemed affordable.

32 (C) As of March 1, 2007, and each two years thereafter, an affordable
33 residential service rate shall be the weighted arithmetic mean of local
34 service rates determined as of October 1 of the preceding year in the
35 manner hereinbefore specified, except that any increase in such mean
36 exceeding \$2 may be satisfied by increases in a rural telephone company's
37 residential monthly service rate not exceeding \$2 per year, effective March
38 1 of the year when such mean is determined, with the remainder applied at
39 the rate of \$2 per year, but not to exceed the affordable rate.

40 (2) For single line business service at any time, an affordable rate
41 shall be the existing rate or an amount \$3 greater than the affordable rate
42 for residential service as determined under ~~provision~~ *paragraph* (1) of this
43 subsection, whichever is higher, except that any increase in the business

1 service affordable rate exceeding \$2 may be satisfied by increases in a
2 rural telephone company's business monthly service rate not exceeding \$2
3 per year, effective March 1 of the year when such rate is determined, with
4 the remainder applied at the rate of \$2 per year, but not to exceed the
5 affordable rate.

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

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

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

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

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

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

41 (f) For regulatory reform plans in which price cap regulation has been
42 elected, price cap plans shall have three baskets: Residential and single-
43 line business, including touch-tone; switched access services; and

1 miscellaneous services. The commission shall establish price caps at the
2 prices existing when the regulatory plan is filed subject to rate rebalancing
3 as provided in subsection (c) for residential services, including touch-tone
4 services, and for single-line business services, including touch-tone
5 services, within the residential and single-line business service basket. The
6 commission shall establish a formula for adjustments to the price caps. The
7 commission also shall establish price caps at the prices existing when the
8 regulatory plan is filed for the miscellaneous services basket. The
9 commission shall approve any adjustments to the price caps for the
10 miscellaneous service basket, as provided in subsection (g).

11 (g) On or before January 1, 1997, the commission shall issue a final
12 order in a proceeding to determine the price cap adjustment formula that
13 shall apply to the price caps for the local residential and single-line
14 business and the miscellaneous services baskets and for sub-categories, if
15 any, within those baskets. In determining this formula, the commission
16 shall balance the public policy goals of encouraging efficiency and
17 promoting investment in a quality, advanced telecommunications network
18 in the state. The commission also shall establish any informational filing
19 requirements necessary for the review of any price cap tariff filings,
20 including price increases or decreases within the caps, to verify such caps
21 would not be exceeded by any proposed price change. The adjustment
22 formula shall apply to the price caps for the local residential and single-
23 line business basket after December 31, 1999, and to the miscellaneous
24 services basket after December 31, 1997. The price cap formula, but not
25 actual prices, shall be reviewed every five years.

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

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

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

41 (k) A price cap is a maximum price for all services taken as a whole
42 in a given basket. Prices for individual services may be changed within the
43 service categories, if any, established by the commission within a basket.

1 An entire service category, if any, within the residential and single-line
2 business basket or miscellaneous services basket may be priced below the
3 cap for such category. Unless otherwise approved by the commission, no
4 service shall be priced below the price floor which will be long-run
5 incremental cost and imputed access charges. Access charges equal to
6 those paid by telecommunications carriers to local exchange carriers shall
7 be imputed as part of the price floor for toll services offered by local
8 exchange carriers on a toll service basis.

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

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

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

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

29 (p) A local exchange carrier may petition the commission to designate
30 an individual service or service category, if any, within the miscellaneous
31 services basket, the switched access services basket or the residential and
32 single-line business basket for reduced regulation. The commission shall
33 act upon a petition for reduced regulation within 21 days, subject to an
34 extension period of an additional 30 days, and upon a good cause showing
35 of the commission in the extension order, or within such shorter time as
36 the commission shall approve. The commission shall issue a final order
37 within the 21-day period or within a 51-day period if an extension has
38 been issued. Following an order granting reduced regulation of an
39 individual service or service category, the commission shall act on any
40 request for price reductions within seven days subject to a 30-day
41 extension. The commission shall act on other requests for price cap
42 adjustments, adjustments within price cap plans and on new service
43 offerings within 21 days subject to a 30-day extension. Such a change will

1 be presumed lawful unless it is determined the prices are below the price
2 floor or that the price cap for a category, if any, within the entire basket has
3 been exceeded.

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

8 (A) Packages or bundles of services shall be price deregulated
9 statewide, however the individual telecommunication service components
10 of such packages or bundles shall remain available for purchase on an
11 individual basis at prices subject to price cap regulation in any exchange in
12 which the standards in subsection (q)(1)(B), (C) or (D) have not been met.
13 If standards in subsection (q)(1)(B), (C) or (D) have been met, the
14 individual telecommunication service components of such packages or
15 bundles shall remain available for purchase on an individual basis and
16 prices for packages or bundles shall not exceed the sum of the highest
17 prices of the a la carte components of the package or bundle;

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

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

33 (D) in any exchange in which there are fewer than 75,000 local
34 exchange access lines served by all providers, the commission shall price
35 deregulate all residential telecommunication services upon a
36 demonstration by the requesting local telecommunications carrier that
37 there are two or more nonaffiliated telecommunications carriers or other
38 entities, that are nonaffiliated with the local exchange carrier, providing
39 local telecommunications service to residential customers, regardless of
40 whether the entity provides local service in conjunction with other services
41 in that exchange area. One of such nonaffiliated carriers or entities shall be
42 required to be a facilities-based carrier or entity and not more than one of
43 such nonaffiliated carriers or entities shall be a provider of commercial

1 mobile radio services in that exchange;

2 (E) rates for lifeline services shall remain subject to price cap
3 regulation;

4 (F) up to and continuing until July 1, 2008, rates for the initial
5 residential local exchange access line and up to four business local
6 exchange access lines at one location shall remain subject to price cap
7 regulation. On and after July 1, 2008, the local exchange carrier shall be
8 authorized to adjust such rates without commission approval by not more
9 than the percentage increase in the consumer price index for all urban
10 consumers, as officially reported by the bureau of labor statistics of the
11 United States department of labor, or its successor index, in any one year
12 period and such rates shall not be adjusted below the price floor
13 established in subsection (k). Such rates shall not be affected by purchase
14 of one or more of the following: Call management services, intraLATA
15 long distance service or interLATA long distance service; and

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

20 (2) For the purposes of this subsection:

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

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

28 (C) telecommunications carriers offering only prepaid
29 telecommunications service shall not be considered entities providing local
30 telecommunications service.

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

38 (4) The commission shall act upon a petition filed pursuant to
39 subsection (q)(1)(C) or (D) within 21 days, subject to an extension period
40 of an additional 30 days, and upon a good cause showing of the
41 commission in the extension order, or within such shorter time as the
42 commission shall approve. The commission shall issue a final order within
43 the 21-day period or within a 51-day period if an extension order has been

1 issued.

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

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

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

31 (8) For the purposes of this subsection:

32 (A) "Packages or bundles of services" means the offering of a local
33 telecommunications service with one or more of the following, subscribed
34 together, as one service option offered at one price, one or more call
35 management services, intraLATA long distance service, interLATA long
36 distance service, internet access, video services or wireless services.
37 Packages or bundles of services shall not include only a single residential
38 local exchange access line or up to four business local exchange access
39 lines at one location and intraLATA long distance service or interLATA
40 long distance service, or both;

41 (B) "local telecommunications service" means two-way voice service
42 capable of being originated and terminated within the exchange of the
43 local exchange telecommunications company seeking price deregulation of

1 its services, regardless of the technology used to provision the voice
2 service;

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

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

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

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

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

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

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

37 (4) The commission shall resume price cap regulation of residential
38 services in any exchange meeting the conditions of subsection (q)(1)(B) by
39 placing it in the appropriate service basket, as approved by the
40 commission, upon a determination by the commission that the following
41 condition is not met: There are at least two or more nonaffiliated
42 telecommunications carriers or other entities, that are nonaffiliated with
43 the local exchange carrier, providing local telecommunications service to

1 residential customers, regardless of whether the entity provides local
2 service in conjunction with other services in that exchange area. One of
3 such nonaffiliated carriers or entities shall be required to be a facilities-
4 based carrier or entity and not more than one such nonaffiliated carriers or
5 entities shall be a provider of commercial mobile radio services in that
6 exchange.

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

11 (t) Cost studies to determine price floors shall be performed as
12 required by the commission in response to complaints. In addition,
13 notwithstanding the exemption in subsection (b), the commission may
14 request information necessary to execute any of its obligations under the
15 act. In response to a complaint that a price deregulated service is priced
16 below the price floor set forth in subsection (k), the commission shall issue
17 an order within 60 days after the filing of the complaint unless the
18 complainant agrees to an extension.

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

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

24 (w) As required under K.S.A. 66-131, and amendments thereto, and
25 except as provided for in ~~subsection (e) of K.S.A. 66-2004(c)~~, and
26 amendments thereto, telecommunications carriers that were not authorized
27 to provide switched local exchange telecommunications services in this
28 state as of July 1, 1996, including cable television operators who have not
29 previously offered telecommunications services, must receive a certificate
30 of convenience based upon a demonstration of technical, managerial and
31 financial viability and the ability to meet quality of service standards
32 established by the commission. Any telecommunications carrier or other
33 entity seeking such certificate shall file a statement, which shall be subject
34 to the commission's approval, specifying with particularity the areas in
35 which it will offer service, the manner in which it will provide the service
36 in such areas and whether it will serve both business customers and
37 residential customers in such areas. Any structurally separate affiliate of a
38 local exchange carrier that provides telecommunications services shall be
39 subject to the same regulatory obligations and oversight as a
40 telecommunications carrier, as long as the local exchange carrier's affiliate
41 obtains access to any services or facilities from its affiliated local
42 exchange carrier on the same terms and conditions as the local exchange
43 carrier makes those services and facilities available to other

1 telecommunications carriers.

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

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

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

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

1 (A) Carry out the commission's obligations established in 47 U.S.C.
2 §§ 251 and 252;

3 (B) implement rules delegated to the state by the federal
4 communications commission or federal law; or

5 (C) regulate intrastate switched access rates, terms and conditions,
6 including the implementation of federal law concerning intercarrier
7 compensation.

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

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

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

16 (C) administer the Kansas lifeline service program pursuant to K.S.A.
17 66-2006, and amendments thereto;

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

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

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

30 (G) administer consumer complaints against telecommunications
31 carriers and electing carriers to investigate fraud, undue discrimination and
32 other practices harmful to consumers, but the commission shall not use
33 this authority to regulate telecommunications carriers or electing carriers
34 beyond the jurisdiction provided the commission in this subsection.

35 Sec. 4. K.S.A. 2015 Supp. 66-2008 is hereby amended to read as
36 follows: 66-2008. On or before January 1, 1997, the commission shall
37 establish the Kansas universal service fund, hereinafter referred to as the
38 KUSF.

39 (a) The commission shall require every telecommunications carrier,
40 telecommunications public utility and wireless telecommunications service
41 provider that provides intrastate telecommunications services and, to the
42 extent not prohibited by federal law, every provider of interconnected VoIP
43 service, as defined by 47 C.F.R. § 9.3 (October 1, 2005), to contribute to

1 the KUSF on an equitable and nondiscriminatory basis. Any
2 telecommunications carrier, telecommunications public utility, wireless
3 telecommunications service provider or provider of interconnected VoIP
4 service which contributes to the KUSF may collect from customers an
5 amount equal to such carrier's, utility's or provider's contribution, but such
6 carrier, provider or utility may collect a lesser amount from its customer.

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

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

15 (c) Beginning January 1, 2014:

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

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

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

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

25 (2) Local exchange carriers subject to price cap regulation pursuant to
26 K.S.A. 66-2005, and amendments thereto, shall not receive KUSF support
27 for any residential or business lines within an exchange that the
28 commission has granted price deregulation pursuant to ~~subsections (q)(1)~~
29 ~~(B), (C) or (D)~~ of K.S.A. 66-2005 ~~(q)(1)(B), (C) or (D)~~, and amendments
30 thereto, except for areas within any census block in such an exchange in
31 which there is no wireline carrier providing local exchange access lines
32 that does not receive KUSF support, not including KUSF support for
33 Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and
34 amendments thereto, for such access lines.

35 (3) Local exchange carriers subject to price cap regulation pursuant to
36 K.S.A. 66-2005, and amendments thereto, shall receive the same per line,
37 per month KUSF support as established in the April 13, 2000 notice in
38 commission docket numbers 99-GIMT-326-GIT and 00-GIMT-236-GIT
39 subject to the cap percentage in subsection (c)(1), not including KUSF
40 support for Kansas lifeline service program purposes pursuant to K.S.A.
41 66-2006, and amendments thereto, except that the amount shall be reduced
42 by any funding received by such carrier from the federal communication
43 commission's connect America fund II for the same household, if feasible,

1 or for the same census block.

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

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

21 (d) (1) Subject to paragraph (2), the commission may periodically
22 review the KUSF to determine if the costs of qualified telecommunications
23 public utilities, telecommunications carriers and wireless
24 telecommunications service providers to provide local service justify
25 modification of the KUSF. If the commission determines that any changes
26 are needed, the commission shall modify the KUSF accordingly and
27 annually report such changes to the senate standing committee on utilities
28 and the house standing committee on utilities and telecommunications.

29 (2) The commission shall undertake a review of the capped amount of
30 KUSF support available for each local exchange carrier operating under
31 price cap regulation that receives such support, not including Kansas
32 lifeline service program purposes pursuant to K.S.A. 66-2006, and
33 amendments thereto, and determine if a lesser amount is appropriate for
34 KUSF distributions after March 1, 2019. Reviews of such carriers shall be
35 based on the forward-looking costs of providing basic voice service, using
36 inputs that reflect the actual geography being served and that reflect the
37 scale and scope of the local exchange carrier providing basic local voice
38 service within each exchange.

39 (e) (1) For each local exchange carrier electing pursuant to ~~subsection~~
40 ~~(b) of K.S.A. 66-2005(b)~~, and amendments thereto, to operate under
41 traditional rate of return regulation, all KUSF support, including any
42 adjustment thereto pursuant to this section, shall ~~be based on~~ *ensure*
43 *recovery of* such carrier's *intrastate* embedded costs, revenue requirements,

1 investments and expenses. ~~Until at least March 1, 2017,~~ Any modification
2 of such support shall be made only as a direct result of changes in those
3 factors enumerated in this subsection. Nothing in this subsection shall
4 prohibit the commission from conducting a general investigation regarding
5 effects of federal universal service reform on KUSF support and the
6 telecommunications public policy of the state of Kansas as expressed in
7 K.S.A. 66-2001, and amendments thereto. The commission may present
8 any findings and recommendations to the telecommunications study
9 committee established in K.S.A. 2015 Supp. 66-2018, and amendments
10 thereto.

11 (2) Notwithstanding any other provision of law, no KUSF support
12 received by a local exchange carrier electing pursuant to ~~subsection (b) of~~
13 ~~K.S.A. 66-2005(b),~~ and amendments thereto, to operate under traditional
14 rate of return regulation shall be used to offset any ~~loss reduction of~~
15 federal universal service fund support for *recovery of such carrier,* ~~except~~
16 ~~that such limitation on KUSF support shall not preclude recovery of~~
17 ~~reductions in intrastate access revenue pursuant to subsection (e) of K.S.A.~~
18 ~~66-2005, and amendments thereto~~ *carrier's interstate costs and*
19 *investments.*

20 (3) Notwithstanding any other provision of law, the total KUSF
21 distributions made to all local exchange carriers operating under traditional
22 rate of return regulation pursuant to ~~subsection (b) of K.S.A. 66-2005(b),~~
23 and amendments thereto, shall not exceed an annual \$30,000,000 cap. A
24 waiver of the cap shall be granted based on a demonstration by a carrier
25 that such carrier would experience significant hardship due to force
26 majeure or natural disaster as determined by the commission.

27 (f) Additional supplemental funding from the KUSF, other than as
28 provided in subsection (e), may be authorized at the discretion of the
29 commission. However, the commission may require approval of such
30 funding to be based upon a general rate case filing. With respect to any
31 request for additional supplemental funding from the KUSF and to any
32 audit of a rural telephone company's KUSF support, the commission shall
33 act expeditiously, and shall be subject to the 240-day deadline for rate case
34 applications pursuant to K.S.A. 66-117, and amendments thereto.

35 Sec. 5. K.S.A. 2015 Supp. 66-2017 is hereby amended to read as
36 follows: 66-2017. (a) Except as otherwise provided in this section, no VoIP
37 service, IP-enabled service, or any combination thereof, shall be subject to
38 the jurisdiction of, regulation by, supervision of or control by any state
39 agency or political subdivision of the state.

40 (b) VoIP services shall be subject to:

41 (1) The requirements of K.S.A. 66-2008, and amendments thereto,
42 pertaining to the Kansas universal service fund (KUSF). The provisions of
43 subsection (a) shall not affect or restrict eligibility for KUSF support; and

- 1 (2) the requirements of the Kansas 911 act, K.S.A. 2015 Supp. 12-
2 5362 et seq., and amendments thereto.
- 3 (c) No provision of this section shall be construed to modify:
- 4 (1) The requirements of the video competition act, K.S.A. 2015 Supp.
5 12-2021 et seq., and amendments thereto;
- 6 (2) the state corporation commission's authority under 47 U.S.C. §§
7 251 and 252, as in effect on the effective date of this act. For the purposes
8 of this paragraph, the term "state commission" used in 47 U.S.C. §§ 251
9 and 252 shall mean the state corporation commission established pursuant
10 to K.S.A. 74-601, and amendments thereto;
- 11 (3) the authority of the state of Kansas or a political subdivision
12 thereof to manage the use of public rights of way pursuant to K.S.A. 17-
13 1902, and amendments thereto; ~~or~~
- 14 (4) the rights and obligations of ~~subsection (y)~~ of K.S.A. 66-2005(y),
15 and amendments thereto; *or*
- 16 (5) *the regulation of any rural telephone company.*
- 17 (d) For the purposes of this section:
- 18 (1) "Internet protocol enabled service" or "IP-enabled service" means
19 any service, capability, functionality, or application using an internet
20 protocol (IP) that enables an end user to send or receive a voice, data or
21 video communication in an IP format.
- 22 (2) "Political subdivision" shall have the meaning ascribed to such
23 term in K.S.A. 28-137b, and amendments thereto.
- 24 (3) "State agency" shall have the meaning ascribed to such term in
25 K.S.A. 75-3701, and amendments thereto.
- 26 (4) "Voice over Internet Protocol" or "VoIP" is any service that:
- 27 (A) Uses an internet protocol (IP) to enable real-time, two-way voice
28 communication that originates from, or terminates at, the user's location in
29 an IP;
- 30 (B) utilizes a broadband connection from the user's location; and
- 31 (C) permits a user to receive a call that originates on the public
32 switched telephone network (PSTN) and to terminate a call to the PSTN.
- 33 Sec. 6. K.S.A. 66-2001 and K.S.A. 2015 Supp. 66-1,187, 66-2005,
34 66-2008 and 66-2017 are hereby repealed.
- 35 Sec. 7. This act shall take effect and be in force from and after its
36 publication in the statute book.