AN ACT concerning telecommunications; relating to the Kansas universal service fund; relating to contributions from advanced telecommunications providers; capping distributions for certain telecommunications providers; creating the rural broadband deployment and maintenance account in the Kansas universal service fund; authorizing expenditures from the rural broadband deployment and maintenance account; amending K.S.A. 66-2011 and K.S.A. 2017 Supp. 66-1,187, 66-2008 and 66-2010 and repealing the existing sections.

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

Section 1. K.S.A. 2017 Supp. 66-1,187 is hereby amended to read as follows: 66-1,187. As used in this act:
(a) "Broadband" means the transmission of digital signals at rates equal to or greater than 1.5 megabits per second.
(b) "CLASS services" means custom local area signaling services, which include automatic callback, automatic recall, calling number identification, selective call rejection, selective call acceptance, selective call forwarding, distinctive ringing and customer originated trace.
(c) "Commission" means the state corporation commission.
(d) "Dialing parity" means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications carrier of the customer's designation from among two or more telecommunications carriers, including such local exchange carrier.
(e) "Federal act" means the federal telecommunications act of 1996, P.L. 104-104 (amending the communications act of 1934, 47 U.S.C. § 151 et seq.)
(f) "ISDN" means integrated services digital network which is a network and associated technology that provides simultaneous voice and data communications over a single communications channel.
(g) "LATA" has the meaning ascribed to it in the federal act.
(h) "Local exchange carrier" means any telecommunications public utility or its successor, not to include an electing carrier, providing
switched telecommunications service within any local exchange service area, as approved by the commission on or before January 1, 1996. However, with respect to the Hill City exchange area, in which multiple carriers were certified by the commission prior to January 1, 1996, the commission's determination, subject to any court appeals, of which authorized carrier shall serve as the carrier of last resort will determine which carrier shall be deemed the local exchange carrier for that exchange.

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

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

(k) "Operating area" means:
   (1) In the case of a rural telephone company, operating area or service area means such company's study area or areas as approved by the federal communications commission;
   (2) in the case of a local exchange carrier, other than a rural telephone company, operating area or service area means such carrier's local exchange service area or areas as approved by the commission.

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

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

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

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

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

(q) "Enhanced universal service" means telecommunications services,
in addition to those included in universal service, which shall include:
Signaling system seven capability, with CLASS service capability; basic
and primary rate ISDN capability, or the technological equivalent; full-
fiber interconnectivity, or the technological equivalent, between central
offices; and broadband capable facilities to: All schools accredited
pursuant to K.S.A. 72-3214 et seq., and amendments thereto; hospitals as
declared in K.S.A. 65-425, and amendments thereto; public libraries; and
state and local government facilities which request broadband services.
(r) "Advanced telecommunications provider" means an entity that
provides broadband internet service or an entity that is a content provider.
(s) "Advanced telecommunications service" means the provision of
broadband internet service or any subscription-based voice, data,
graphics or video services provided by a content provider.
(t) "Broadband internet service" means a retail service that utilizes
broadband facilities to allow end users to originate and receive data from
all or substantially all internet endpoints without regard to delivery
technology.
(w) "Content provider" means any entity that utilizes broadband
facilities to offer and provide retail subscription-based voice, data,
graphics or video services to customers of such content provider and
generates intrastate net retail revenues of $500,000 or more from such
services.
Sec. 2. K.S.A. 2017 Supp. 66-2008 is hereby amended to read as
follows: 66-2008. On or before January 1, 1997, the commission shall
establish the Kansas universal service fund, hereinafter referred to as the
KUSF.
(a) The commission shall require every advanced
telecommunications provider; telecommunications carrier,
telecommunications public utility and wireless telecommunications service
provider that provides intrastate telecommunications services or advanced
telecommunications services and, to the extent not prohibited by federal
law, every provider of interconnected VoIP service, as defined by 47
C.F.R. 9.3, to contribute to the KUSF based upon the provider's intrastate
advanced telecommunications services and telecommunications services
net retail revenues on an equitable and nondiscriminatory basis. Except for
advanced telecommunications services, the commission shall not require
any provider to contribute to the KUSF under a different contribution
methodology than such provider uses for purposes of the federal universal
service fund, including for bundled offerings. Any advanced
telecommunications provider; telecommunications carrier,
telecommunications public utility, wireless telecommunications service
provider or provider of interconnected VoIP service which contributes to
the KUSF may collect from customers an amount equal to such carrier's,
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utility's or provider's contribution, but such carrier, provider or utility may
collect a lesser amount from its customer.

Except as provided in subsection (c)(6) through (8), any contributions
in excess of distributions collected in any reporting year shall be applied to
reduce the estimated contribution that would otherwise be necessary for
the following year.

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

(c) Beginning January 1, 2014 March 1, 2019, and subject to the cap
pursuant to paragraph (7):

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

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

(B) $11,400,000.

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

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

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

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

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

(6) On and after March 1, 2019, the total annual amount of contributions required to be made by all telecommunications carriers, telecommunications public utilities, wireless telecommunications service providers and providers of interconnected VoIP service shall be greater than or equal to the total amount of contributions made by all such carriers, utilities and providers between March 1, 2017, and March 1, 2018.

(7) (A) The commission shall cap all eligible telecommunications carriers' KUSF support at an amount based upon the amount of KUSF support received by eligible telecommunications carriers between March 1, 2017, and March 1, 2018:

(i) On and after March 1, 2019, 90% of such KUSF support;
(ii) on and after March 1, 2020, 85% of such KUSF support;
(iii) on and after March 1, 2021, 80% of such KUSF support; and
(iv) on and after March 1, 2022, 75% of such KUSF support.

(B) In any year that the total KUSF support for such carriers would exceed the caps provided in this paragraph, each carrier's KUSF support shall be proportionately based on the amount of support each such carrier would have received absent the cap.

(8) All contributions made by telecommunications carriers, telecommunications public utilities, wireless telecommunications service providers and providers of interconnected VoIP service pursuant to paragraph (6) that exceed the total capped distribution amounts provided in paragraph (7) shall be deposited in the KUSF and credited to the rural broadband deployment and maintenance account created pursuant to
subsection (h).

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

(2) The commission shall undertake a review of the capped amount of KUSF support available for each local exchange carrier operating under price cap regulation that receives such support, not including Kansas lifeline service program purposes pursuant to K.S.A. 66-2006, and amendments thereto, and determine if a lesser amount is appropriate for KUSF distributions after March 1, 2019. Reviews of such carriers shall be based on the 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 local exchange carrier providing basic local voice service within each exchange.

(e) (1) For each local exchange carrier electing pursuant to K.S.A. 66-2005(b), and amendments thereto, to operate under traditional rate of return regulation, all KUSF support, including any adjustment thereto pursuant to this section, shall ensure the reasonable opportunity for recovery of such carrier's intrastate embedded costs, revenue requirements, investments and expenses, subject to the annual cap established pursuant to subsection subsections (c)(7) and (e)(3). Any modification of such support shall be made only as a direct result of changes in those factors enumerated in this subsection. Nothing in this subsection shall prohibit the commission from conducting a general investigation regarding effects of federal universal service reform on KUSF support and the telecommunications public policy of the state of Kansas as expressed in K.S.A. 66-2001, and amendments thereto. The commission may present any findings and recommendations to the telecommunications study committee established in K.S.A. 2017 Supp. 66-2018, and amendments thereto.

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

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

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

(g) Each provider of advanced telecommunications service shall contribute to the KUSF based upon the provider's intrastate advanced telecommunications services net retail revenues. The KUSF administrator shall set contribution rates for advanced telecommunications services based upon the projected obligations of the rural broadband deployment and maintenance account. The administrator may set different contribution rates for content providers and providers of broadband internet service, except that each individual rate shall be equitable and nondiscriminatory for all such content providers or providers of broadband internet service. All moneys contributed to the KUSF for the provision of advanced telecommunications services pursuant to this subsection shall be deposited in the KUSF and credited to the rural broadband deployment and maintenance account.

(h) The commission shall establish and maintain within the KUSF a rural broadband deployment and maintenance account to be administered by the KUSF administrator selected pursuant to K.S.A. 66-2010, and amendments thereto. Moneys credited to the rural broadband deployment and maintenance account shall only be expended in accordance with the provisions of this section.

(i)(1) Advanced telecommunications providers may submit applications to the KUSF administrator for assistance from the rural broadband deployment and maintenance account to deploy and maintain broadband service in rural areas. As used in this subsection:

(A) "Broadband service" means a retail service that provides high-speed internet access capability and enables a subscriber to the service to
originates and receive high-quality voice, data, graphics and video, without regard to delivery technology and: (i) Is capable of minimum download speeds of 25 megabits per second and minimum upload speeds of three megabits per second; (ii) provides an average latency of less than 100 milliseconds to enable the use of real time communications; and (iii) provides subscribers with a minimum monthly data allowance of 150 gigabytes per month.

(B) "Rural area" means a county with an average population density of less than 100 persons per square mile, excluding the county seat, and that is not served by broadband service with the minimum speeds or is served by broadband service, but less than 10% of the population in such county has access to such broadband service.

(2) Applications for assistance shall provide: (A) The geographic area and number of customers to be served; (B) the time it will take to construct the necessary infrastructure to serve the prospective customers; (C) customer commitments including, but not limited to, proposed efforts to sign service contracts with prospective customers within the geographic area, preconstruction petitions, deposits or other forms of customer commitments; and (D) such other requirements as the commission deems necessary or appropriate.

(3) Applicants shall be required to demonstrate that requested assistance from the rural broadband deployment and maintenance account is not more than 60% of the total cost of the proposed project at the time the application is submitted to the KUSF administrator.

(4) If multiple applicants submit applications to serve the same geographic area's customers, the KUSF administrator shall give preference to: (A) Providers with proven records of successful development and deployment of rural broadband services; (B) applications that request the least amount of money to serve such geographic area; and (C) any other criteria that the KUSF administrator deems appropriate.

(5) Advanced telecommunications providers that are awarded assistance funds from the rural broadband deployment and maintenance account shall be reimbursed by the KUSF administrator upon submission of verifiable invoices for infrastructure deployment and maintenance costs up to the amount approved in such carrier's application by the KUSF administrator.

(6) To be eligible for assistance from the broadband deployment and maintenance account, an application for assistance shall include plans to be completed within five years from the date such application is approved by the KUSF administrator.

(7) The KUSF administrator shall allocate 5% of the total amount that is collected and credited to the broadband deployment and
maintenance account in each year for distribution to county extension
councils and extension districts created pursuant to article 6 of chapter 2
of the Kansas Statutes Annotated, and amendments thereto. Such amount
shall be allocated to county extension councils and extension districts on
an equitable and nondiscriminatory basis to provide support to broadband
service providers to increase customer take rates. County extension
councils and extension districts may support more than one broadband
service provider, but shall give priority to those providers that are
receiving funds from the broadband deployment and maintenance account.

(8) The commission may promulgate any necessary rules and
regulations to implement and administer the provisions of this subsection.

Sec. 3. K.S.A. 2017 Supp. 66-2010 is hereby amended to read as
follows: 66-2010. (a) The commission shall utilize a competitive bidding
process to select a neutral, competent and bonded third party to administer
the KUSF.

(b) The administrator shall be responsible for: (1) Collecting and
auditing all relevant information from all qualifying advanced
telecommunications providers, telecommunications public utilities,
telecommunications carriers or wireless telecommunications service
providers receiving funds from or providing funds to the KUSF; (2)
verifying, based on the calculations of each qualifying advanced
telecommunications provider, telecommunications carrier,
telecommunications public utility or wireless telecommunications service
provider, the obligation of each such qualifying carrier, utility or provider
to generate the funds required by the KUSF; (3) collecting all moneys due
to the KUSF from all advanced telecommunications providers,
telecommunications public utilities, telecommunications carriers and
wireless telecommunications service providers in the state; and (4)
distributing amounts on a monthly basis due to qualifying
telecommunications public utilities, wireless telecommunications service
providers and telecommunications carriers receiving KUSF funding; (5)
accepting applications for assistance from the broadband deployment and
maintenance account in the KUSF, approving or denying applications and
distributing approved assistance amounts to eligible telecommunications
providers and advanced telecommunications providers from such account;
and (6) disbursing funds from the broadband deployment and maintenance
account to county extension councils and extension districts pursuant to
K.S.A. 66-2008(i)(7), and amendments thereto.

(c) Any information made available or received by the administrator
from carriers, utilities or providers receiving funds from or providing
funds to the KUSF shall not be subject to any provisions of the Kansas
open records act and shall be considered confidential and proprietary.

(d) The administrator shall be authorized to maintain an action to
collect any funds owed by any advanced telecommunications provider, telecommunications carrier, public utility or wireless telecommunications provider in the district court in the county of the registered office of such carrier, utility or provider or, if such carrier, utility or provider does not have a registered office in the state, such an action may be maintained in the county where such carrier's, utility's or provider's principal office is located. If such carrier, utility or provider has no principal office in the state, such an action may be maintained in the district court of any county in which such carrier, utility or provider provides service.

(e)(1) The KUSF administrator shall be responsible to ensure that funds do not fall below the level necessary to pay all amounts collectively owed to all qualifying advanced telecommunications carriers, telecommunications public utilities, wireless telecommunications service providers and telecommunications carriers. The KUSF administrator shall be responsible to ensure that total annual contributions do not fall below the amount of contributions required pursuant to K.S.A. 66-2008(c)(6), and amendments thereto. The administrator shall have the authority to retain and invest in a prudent and reasonable manner any excess funds collected in any period to help ensure that adequate funds are available to cover amounts payable in other periods.

(2) Subject to the provisions of appropriations acts, for fiscal year 2013, the KUSF administrator may transfer moneys from the KUSF to the state treasurer. Upon the receipt of any payment, the state treasurer shall deposit the entire amount in the state treasury and credit it to the KAN-ED fund. Any such payments shall be made after all payments required by K.S.A. 66-2008, and amendments thereto, for the month are made from the KUSF.

Sec. 4. K.S.A. 66-2011 is hereby amended to read as follows: 66-2011. (a) As used in this section, "the internet" means the international network of interconnected government, educational, and commercial computer networks. An "internet service provider" means an entity that provides end user access to the internet. Except as provided in K.S.A. 66-2008, and amendments thereto, pertaining to the Kansas universal service fund, nothing in this section shall be construed to mean that the commission has any regulatory jurisdiction over internet service providers. The provisions of this section apply only to those locations of the state where local (7-digit) internet access, which supports at least 14.4 kilobits per second service with no more than 5% blockage during the busiest hour of the service, is not available on or after October 1, 1996.

(b) On or after July 1, 1996 and prior to October 1, 1996, rural telephone companies shall file concurring tariffs to offer internet access in locations identified in subsection (a) to an intralATA internet service provider of the customer's choice. All rural telephone companies, including
local exchange carriers pursuant to subsection (c), shall provide dial-up
access to support at least 14.4 kilobit per second service ubiquitously
throughout the exchange service area, with 19.2 kilobit per second service
on and after July 1, 1999. The commission shall increase the 19.2 kilobit
per second requirement when the commission determines that more
advanced technology is both technically and economically feasible.

(c) On or after July 1, 1996 and prior to October 1, 1996, all local
exchange carriers, other than rural telephone companies, shall file tariffs
with the commission for two flat-rate dial-up plans, which would provide
internet access in locations identified in subsection (a) to an intraLATA
internet service provider of the customer's choice. All such plans shall be
approved by the commission if they meet the criteria established in this
section. The first plan includes: (1) For off-peak users, a monthly rate of
not more than $15 per line for the hours of 5 p.m. through 7:59 a.m.
weekdays and all hours on weekends and federal holidays. Calls placed
outside this specified off-peak period shall be billed at prevailing toll
rates; and (2) for unlimited usage, the rate shall not exceed $30 per line
per month. The commission shall waive imputation considerations in
reviewing and approving these service offerings.

(d) If a location was previously eligible for the plans provided in
subsection (c) and a new internet service provider establishes a local
presence in that location, the local exchange carrier serving the location
shall:
(1) Notify all subscribers of the discounted internet access service
that a local internet service provider is now available;
(2) continue to make the discounted internet access service available
to existing subscribers of such service with no deterioration of such
service; and
(3) allow no new subscribers of the discounted internet access
service.

(e) Except as provided in K.S.A. 66-2008, and amendments thereto,
pertaining to the Kansas universal service fund, nothing in this section
shall be construed to imply that the commission has any regulatory
jurisdiction over the internet or internet service providers with respect to
quality of service, rates, billing and collection practices, end-to-end
bandwidth, technical support or any other aspects of the business of
providing internet access service. However, the commission shall monitor
the adequacy of connectivity to internet service providers. Upon
complaints of inadequate access, commission staff shall request a seven-
day traffic busy line study from the local exchange carrier serving the
internet service provider. Commission staff shall analyze the study results
to determine whether there is more than 5% access blockage and shall
provide the analysis to the internet service provider for consideration and
possible action. If the analysis indicates a need for additional capacity and
the internet service provider fails to take a corrective action within 45 days
after the analysis is provided to such provider by the commission staff, the
internet service provider shall be removed from the commission's internet
service provider registry and subscribers of such internet service
subscriber shall be eligible for the plans provided in subsection (c) if there
is no other local internet service provider serving the location.

(f) All internet service providers operating in the state shall register
with the commission. Such registration shall include the name of the
internet service provider and the provider's address, contact name, phone
number, and access line numbers. This information shall be maintained by
the commission at the commission's internet home page
(http://www.kcc.state.ks.us). This information shall be used to determine a
requesting customer's eligibility for the plans provided in subsection (c)
and to provide a single authoritative listing of internet service provider
access numbers for local exchange carriers to use in processing service
orders. Absent complaints to commission staff, internet service providers
shall be assumed to provide service with 5% or less access blockage upon
registration. If, upon complaint and subsequent investigation, access
blockage is determined to exceed 5%, the provider shall be removed from
the commission's registry.

(g) During the 1999 session of the Kansas legislature, the commission
shall transmit a report to the chairperson, vice chairperson and ranking-
minority member of the house standing committee on energy and natural
resources, the senate standing committee on transportation and utilities and
the joint committee on computers and telecommunications concerning
implementation of this section. The report shall include recommendations
for revisions in this section necessitated by technological innovation or
market changes in the telecommunications industry. The report also may
include an expiration date for this section.

and 66-2010 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its
publication in the statute book.