

MINUTES

TELECOMMUNICATIONS STUDY COMMITTEE

November 6, 2013
Room 582-N–Statehouse

Members Present

Senator Pat Apple, Co-chairperson
Representative Joe Seiwert, Co-chairperson
Senator Jay Emler
Senator Marci Francisco
Senator Tom Hawk
Senator Forest Knox
Senator Jeff Longbine
Senator Julia Lynn
Senator Rob Olson
Senator Mike Petersen
Representative Rob Bruchman
Representative John Doll
Representative Randy Garber
Representative Ramon Gonzalez
Representative Annie Kuether
Representative Ron Ryckman, Sr.
Representative Scott Schwab
Representative Jack Thimesch
Representative Brandon Whipple

Staff Present

Cindy Lash, Kansas Legislative Research Department
Heather O'Hara, Kansas Legislative Research Department
Erica Haas, Kansas Legislative Research Department
Warren Hays, Kansas Legislative Research Department
Matt Sterling, Office of the Revisor of Statutes
Tamera Lawrence, Office of the Revisor of Statutes
Linda Herrick, Committee Assistant

Conferee

Christine Aarnes, Chief of Telecommunications, Kansas Corporation Commission

Others attending

See attached list.

The meeting was called to order by Senator Pat Apple, Co-chairperson, with Representative Joe Seiwert also serving as Co-chairperson, at 9:30 a.m. in Room 582-N of the Capitol.

Co-chairperson Apple welcomed the Committee members, staff, and guests, and reviewed the agenda ([Attachment 1](#)). He called upon Heather O'Hara, Kansas Legislative Research Department (KLRD), to review the Committee charge ([Attachment 2](#)). The three charges are:

- Study telecommunications issues including funding, uses, and sources of:
 - The Kansas Universal Service Fund (KUSF); and
 - The Federal Universal Service Fund (FUSF);
- Review and make recommendations on the state's public policy on telecommunications; and
- Review possible need for funding sources of and uses of a Kansas Broadband Fund.

Ms. O'Hara also provided a copy of Section 1 of 2013 HB 2201 ([Attachment 3](#)), which created the Telecommunications Study Committee and further described its charge. She explained that the Committee is required to determine the scope of the audit on the KUSF to be administered by the Kansas Department of Revenue. The deadline established for the Committee is to have a report and policy recommendations to the Senate Committee on Utilities, the Senate Committee on Ways and Means, the House Committee on Utilities and Telecommunications, and the House Committee on Appropriations prior to December 31, 2014.

Matt Sterling, Office of the Revisor of Statutes (Revisors), explained the definitions and regulation of carriers, *i.e.*, telecommunications service providers ([Attachment 4](#)). He called the Committee members' attention to the various types of telecommunication carriers and referred to a list of telecommunication carriers by type ([Attachment 5](#)), which was provided by the Kansas Corporation Commission (KCC).

Cindy Lash, KLRD, provided a summary of telecommunications bills from 1996-2013 ([Attachment 6](#)). Congress passed the Federal Telecommunications Act of 1996. This opened the arena of competition for telephone carriers. The Kansas Legislature adopted a major telecommunications policy bill in 1996, as well. The bill is sometimes referred to as the Kansas Telecommunications Act of 1996.

The first part of that bill, which is contained in KSA 66-2001 ([Attachment 7](#)), established the following public policy objectives: ensure that every Kansan will have access to a first-class telecommunications infrastructure that provides excellent services at an affordable price; ensure that customers realize the benefits of competition through increased services and improved telecommunications services at reduced rates; promote consumer access to a full range of services comparable in urban and rural areas; advance the development of a statewide infrastructure capable of supporting applications; and protect consumers of telecommunications services from fraudulent business practices.

Some of the other items addressed by 1996 Senate Sub. for Sub. for HB 2728 (the Kansas Telecommunications Act) include the KCC responsibility to establish funding mechanisms for equipment for persons with specified special needs, establish the KUSF similar to the FUSF, and establish the Kansas Lifeline Service Program. Every carrier that provides

intrastate service must contribute to the KUSF, but can collect those contributions from customers, and is authorized to receive funding from KUSF if certain commitments are met.

The bill required local exchange carriers to allow reasonable resale of their telecommunications services, to file a network infrastructure plan and a regulatory reform plan (in which the carrier could choose either price cap regulation or traditional rate-of-return regulation), and set out conditions for rate rebalancing between intrastate and interstate charges.

Co-chairperson Apple then called upon Christine Aarnes, KCC, to give a presentation on the KUSF ([Attachment 8](#)). Ms. Aarnes introduced KCC staff who would be responding to questions: Sandy Reams, Justin Grady, Jeff McClanahan, and Tom Day. Ms. Aarnes relayed to the Committee the programs the FCC oversees that are funded by the FUSF. She then provided information about KUSF and audits to determine compliance. Mr. Grady answered questions relating to the KUSF audits. Co-Chairperson Apple thanked Ms. Aarnes for her presentation.

The Co-chairperson recognized Ms. Lash, who reviewed the Committee's charge to determine the scope of the audit of KUSF, as well as a draft scope for the Committee's consideration ([Attachment 9](#)). Co-Chairperson Apple asked for discussion of the items in bullets. Those not addressed below are unchanged.

Oversight and Structure Assessments

Bullet 1 – Following discussion, *it was moved by Senator Francisco, seconded by Senator Hawk, and carried by the Committee to approve rewording as follows:* “The adequacy of applicable Kansas statutes and governmental review processes to ensure the amounts of KUSF moneys disbursed to recipients are not excessive, including the possible need to redefine the types of expenditures eligible for reimbursement under the KUSF.”

Bullet 3 – After discussion, *it was moved by Senator Emler, seconded by Representative Schwab, and carried by the Committee to approve rewording as follows:* “Comparison of the KUSF programs to state-level universal service programs in other states. (Are other states accomplishing the same thing in a different way? Are any other states in the process of changing their USF program?)”

Detailed Revenue/Expenditure/Operations Analysis

Bullet 1 – Following discussion, *it was moved by Senator Emler, seconded by Senator Lynn, and carried by the Committee to approve rewording as follows:* “Historical information on which companies have received KUSF and in what amounts, including calculation of annual per line per linear mile support (taking population density and/or geography into consideration in interpreting the results, or other metrics).”

Bullet 2 – After discussion, *it was moved by Senator Olson, seconded by Senator Longbine, and carried by the Committee to approve rewording as follows:* “Total amount of rural utilities service debt and other debt, with a nexus to the KUSF, by recipient or related entity.”

Bullet 3 – Staff will work on further refining the idea of type of technology.

Bullet 4 – After discussion, it was moved by Senator Emler, seconded by Senator Olson, and carried by the Committee to approve rewording as follows: “Affiliate transactions and transfers with a nexus to the KUSF.”

Bullet 5 – Following discussion, it was moved by Senator Francisco, seconded by Senator Petersen, and carried by the Committee to approve rewording as follows: “Expenditure assessment to ensure the KUSF is only being used to subsidize services authorized by Kansas statutes.”

Bullet 6 – After discussion, it was moved by Senator Emler, seconded by Representative Kuether, and carried by the Committee to delete this item.

Bullet 7 – Following discussion, it was moved by Senator Francisco, seconded by Senator Longbine, and carried by the Committee to approve rewording as follows: “The number of telephone competitors in each exchange, and whether the exchange is supported by the KUSF.”

Bullet 8 – After discussion, it was moved by Senator Longbine, seconded by Representative Gonzalez, and carried by the Committee to approve rewording as follows: “Economic assessment by exchange, i.e., how do the revenues paid into the KUSF and into FUSF from each exchange compare with benefits each exchange receives from KUSF and from the FUSF.”

Bullet 9 – After discussion, it was moved by Senator Emler, seconded by Representative Kuether, and carried by the Committee to delete this item.”

Bullet 10 – Following discussion, it was moved by Senator Francisco, seconded by Senator Knox, and carried by the Committee to approve rewording as follows: “Detailed review of the companies with high KUSF support per line, to identify the factors that contribute to this level of support.”

After some discussion with Ms. Lash, it was moved by Co-chairperson Seiwert, seconded by Senator Hawk, and carried by the Committee that staff work with the KCC and Legislative Post Audit and determine whether staff can furnish information or whether it should be included in the audit and come back to the next meeting with suggestions on how this can be addressed.

Regarding the last sentence on the scope statement, following discussion, Co-chairperson Apple made a motion, seconded by Senator Knox, and carried by the Committee to approve rewording as follows: “The audit report should include proposals for legislative consideration and action for adequate oversight of the KUSF.”

After discussion, it was moved by Senator Knox, and seconded by Senator Lynn, that the auditors' recommendations should be consistent with KSA 66-2001. The motion failed. Members agreed that this charge would be taken up at a later meeting.

Following discussion, it was moved by Senator Longbine, seconded by Senator Olson, and carried by the Committee to approve the presented amendments to the KUSF audit scope.

Senator Apple suggested the revised audit scope be sent to interested parties by email and, in order to expedite the process, companies submit their written comments by 5:00 p.m., Thursday, November 14, to Cindy Lash, KLRD.

The Committee scheduled to meet again in December to further discuss the audit scope and receive additional information.

There being no further business, the meeting adjourned at 2:33 p.m.

Prepared by Linda Herrick
Edited by Cindy Lash

Approved by the Committee on:

December 12, 2013
(Date)