AN ACT concerning the adjutant general; relating to the funding for disasters; KUSF; insurance fees and premium taxes; creating the disaster reimbursement fund; amending K.S.A. 2011 Supp. 66-2008 and 66-2010 and repealing the existing section and the Kansas emergency management and homeland security fund.

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

New Section 1. (a) There is hereby established in the state treasury the disaster reimbursement fund. Moneys deposited in the disaster reimbursement fund may be expended for the expenses of any disaster for which there has been issued a proclamation declaring a state of disaster emergency pursuant to K.S.A. 48-924, and amendments thereto. Expenditures from the disaster reimbursement fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the adjutant general or by a person or persons designated by the adjutant general.

(b) There is hereby established in the state treasury the Kansas emergency management and homeland security fund. Moneys deposited in the Kansas emergency management and homeland security fund may be expended for operating expenditures of the adjutant general related to emergency management and homeland security, including, but not limited to, direct and indirect operating expenses. Expenditures from the Kansas emergency management and homeland security fund shall be made upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the adjutant general or by a person or persons designated by the adjutant general.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the Kansas emergency management and homeland security fund interest earnings based on: (1) The average daily balance of moneys in the disaster reimbursement fund for the preceding month; and (2) the net earnings rate
of the pooled money investment portfolio for the preceding month.

New Sec. 2. (a) Subject to the provisions of subsection (b), on or before July 10, 2012, and on or before the 10th day of each month thereafter, the administrator of the KUSF shall pay from the KUSF to the state treasurer $833,334. Upon the receipt of the payment, the state treasurer shall deposit the entire amount in the state treasury and credit it to the disaster reimbursement 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.

(b) Whenever the adjutant general determines that the unencumbered balance of moneys credited to the disaster reimbursement fund at the end of a fiscal year is equal to or greater than $40,000,000, on or before June 30 of such fiscal year, the adjutant general shall notify the administrator of the KUSF and for the ensuing fiscal year, the administrator of the KUSF shall not make the payments to the state treasurer pursuant to subsection (a).

New Sec. 3. (a) Subject to the provisions of subsection (b), on July 1, 2012, or as soon thereafter as moneys are available, and on each July 1 thereafter, the director of accounts and reports shall transfer $12,000,000 to the state general fund to the disaster reimbursement fund. Each such transfer shall be considered to be moneys that are received from fees and premium taxes imposed on insurance companies and other entities permitted by law to do business in the state subject to regulation by the commissioner of insurance by statute and that are credited to the state general fund pursuant to statute to assist in the payment of expenses of any disaster issued a proclamation declaring a state of disaster emergency pursuant to K.S.A. 48-924, and amendments thereto.

(b) Whenever the adjutant general determines that the unencumbered balance of moneys credited to the disaster reimbursement fund at the end of a fiscal year is equal to or greater than $40,000,000, on or before June 30 of such fiscal year, the adjutant general shall notify the director of accounts and reports and for the ensuing fiscal year, the director of accounts and reports shall not make the transfer pursuant to subsection (a).

Sec. 4. K.S.A. 2011 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 telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate 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 (October 1, 2005), to contribute to
the KUSF on an equitable and nondiscriminatory basis. Any
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, utility's or provider's contribution, but such
carrier, provider or utility may collect a lesser amount from its customer.
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 and in addition to the provisions of
section 2, and amendments thereto, 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) The commission shall 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.
(d) Any qualified telecommunications carrier, telecommunications-
public utility or wireless telecommunications service provider may request
supplemental funding from the KUSF based upon a percentage increase in
access lines over the 12-month period prior to the request. The
supplemental funding shall be incurred for the purpose of providing
services to and within the service area of the qualified telecommunications
carrier, telecommunications public utility or wireless telecommunications
service provider. Supplemental funding from the KUSF shall be used for
infrastructure expenditures necessary to serve additional customers within
the service area of such qualifying utility, provider or carrier. All affected
parties shall be allowed to review and verify a request of such a qualified
utility, carrier or provider for supplemental funding from the KUSF, and to
intervene in any commission proceeding regarding such request. The
commission shall issue an order on the request within 120 days of filing.
Additional funding also may be requested for: The recovery of shortfalls
due to additional rebalancing of rates to continue maintenance of parity
with interstate access rates; shortfalls due to changes to access revenue
requirements resulting from changes in federal rules; additional investment
required to provide universal service and enhanced universal service,
deployed subject to subsection (a) of K.S.A. 66-2005, and amendments
thereto; and for infrastructure expenditures in response to facility or
service requirements established by any legislative, regulatory or judicial
authority. Such requests shall be subject to simplified filing procedures and
the expedited review procedures, as outlined in the stipulation attached to
the order of November 19, 1990 in docket no. 127,140-U (Phase IV).

(e) For each local exchange carrier electing pursuant to subsection
(b) of K.S.A. 66-2005, and amendments thereto, to operate under
traditional rate of return regulation, all KUSF support, including any
adjustment thereto pursuant to this section shall be based on such carrier’s
embedded costs, revenue requirements, investments and expenses.

(f) Additional supplemental funding from the KUSF, other than as
provided in subsection (d), 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, the
commission shall act expeditiously, but shall not be subject to the 120-day
120-day deadline set forth in subsection (d).

Sec. 5. K.S.A. 2011 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 telecommunications
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 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
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; and
(5) administering the provisions of section 2, and amendments thereto.

(e) 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 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) 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 telecommunications public utilities, wireless telecommunications service providers and telecommunications carriers. 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.

(f) (1) Before July 1, of each year, the chief executive officer of the state board of regents shall certify to the administrator of the KUSF the amount provided by appropriation acts to be expended from the KAN-ED fund for the fiscal year commencing the preceding July 1. Upon receipt of the certification of the chief executive officer of the state board of regents, the KUSF administrator shall add the amount certified to the amount annually required to fund the KUSF as determined pursuant to subsection (b).

(2) On or before the 10th day of each month, the administrator of the KUSF shall pay from the KUSF to the state treasurer 1/12 of the amount certified by the chief executive officer of the state board of regents pursuant to subsection (a) for the fiscal year preceding the fiscal year in which the payment is made. Upon the receipt of the 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.

(3) Not more than the following shall be paid from the KUSF to the state treasurer pursuant to this subsection (f): In fiscal year 2006, $10,000,000; in fiscal year 2007, $8,000,000; in fiscal year 2008, $6,000,000; and in fiscal year 2009, $5,500,000.

(4) The provisions of this subsection (f) shall expire on June 30, 2009. Thereafter, state general fund moneys shall be used to fund the KAN-ED network and such funding shall be of the highest priority along with education funding.

Sec. 6. K.S.A. 2011 Supp. 66-2008 and 66-2010 are hereby repealed.

Sec. 7. 3. This act shall take effect and be in force from and after its publication in the statute book.