

**SENATE BILL No. 336**

By Committee on Ways and Means

1-25

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1 AN ACT concerning the adjutant general; relating to the funding for  
2 disasters; KUSF; insurance fees and premium taxes; creating the  
3 disaster reimbursement fund; amending K.S.A. 2011 Supp. 66-2008  
4 and 66-2010 and repealing the existing sections.  
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6 *Be it enacted by the Legislature of the State of Kansas:*

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

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

21 New Sec. 2. (a) Subject to the provisions of subsection (b), on or  
22 before July 10, 2012, and on or before the 10<sup>th</sup> day of each month  
23 thereafter, the administrator of the KUSF shall pay from the KUSF to the  
24 state treasurer \$833,334. Upon the receipt of the payment, the state  
25 treasurer shall deposit the entire amount in the state treasury and credit it  
26 to the disaster reimbursement fund. Any such payments shall be made after  
27 all payments required by K.S.A. 66-2008, and amendments thereto, for the  
28 month are made from the KUSF.

29 (b) Whenever the adjutant general determines that the unencumbered  
30 balance of moneys credited to the disaster reimbursement fund at the end  
31 of a fiscal year is equal to or greater than \$40,000,000, on or before June  
32 30 of such fiscal year, the adjutant general shall notify the administrator of  
33 the KUSF and for the ensuing fiscal year, the administrator of the KUSF  
34 shall not make the payments to the state treasurer pursuant to subsection  
35 (a).

36 New Sec. 3. (a) Subject to the provisions of subsection (b), on July 1,

1 2012, or as soon thereafter as moneys are available, and on each July 1  
2 thereafter, the director of accounts and reports shall transfer \$12,000,000  
3 from the state general fund to disaster reimbursement fund. Each such  
4 transfer shall be considered to be moneys that are received from fees and  
5 premiums taxes imposed on insurance companies and other entities  
6 permitted by law to do business in the state subject to regulation by the  
7 commissioner of insurance by statute and that are credited to the state  
8 general fund pursuant to statute to assist in the payment of expenses of any  
9 disaster issued a proclamation declaring a state of disaster emergency  
10 pursuant to K.S.A. 48-924, and amendments thereto.

11 (b) Whenever the adjutant general determines that the unencumbered  
12 balance of moneys credited to the disaster reimbursement fund at the end  
13 of a fiscal year is equal to or greater than \$40,000,000, on or before June  
14 30 of such fiscal year, the adjutant general shall notify the director of  
15 accounts and reports and for the ensuing fiscal year, the director of  
16 accounts and reports shall not make the transfer pursuant to subsection (a).

17 Sec. 4. K.S.A. 2011 Supp. 66-2008 is hereby amended to read as  
18 follows: 66-2008. On or before January 1, 1997, the commission shall  
19 establish the Kansas universal service fund, hereinafter referred to as the  
20 KUSF.

21 (a) The commission shall require every telecommunications carrier,  
22 telecommunications public utility and wireless telecommunications service  
23 provider that provides intrastate telecommunications services and, to the  
24 extent not prohibited by federal law, every provider of interconnected VoIP  
25 service, as defined by 47 C.F.R. 9.3 (October 1, 2005), to contribute to the  
26 KUSF on an equitable and nondiscriminatory basis. Any  
27 telecommunications carrier, telecommunications public utility, wireless  
28 telecommunications service provider or provider of interconnected VoIP  
29 service which contributes to the KUSF may collect from customers an  
30 amount equal to such carrier's, utility's or provider's contribution, but such  
31 carrier, provider or utility may collect a lesser amount from its customer.

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

35 (b) Pursuant to the federal act *and in addition to the provisions of*  
36 *section 2, and amendments thereto*, distributions from the KUSF shall be  
37 made in a competitively neutral manner to qualified telecommunications  
38 public utilities, telecommunications carriers and wireless  
39 telecommunications providers, that are deemed eligible both under  
40 subsection (e)(1) of section 214 of the federal act and by the commission.

41 (c) The commission shall periodically review the KUSF to determine  
42 if the costs of qualified telecommunications public utilities,  
43 telecommunications carriers and wireless telecommunications service

1 providers to provide local service justify modification of the KUSF. If the  
2 commission determines that any changes are needed, the commission shall  
3 modify the KUSF accordingly.

4 (d) Any qualified telecommunications carrier, telecommunications  
5 public utility or wireless telecommunications service provider may request  
6 supplemental funding from the KUSF based upon a percentage increase in  
7 access lines over the 12-month period prior to the request. The  
8 supplemental funding shall be incurred for the purpose of providing  
9 services to and within the service area of the qualified telecommunications  
10 carrier, telecommunications public utility or wireless telecommunications  
11 service provider. Supplemental funding from the KUSF shall be used for  
12 infrastructure expenditures necessary to serve additional customers within  
13 the service area of such qualifying utility, provider or carrier. All affected  
14 parties shall be allowed to review and verify a request of such a qualified  
15 utility, carrier or provider for supplemental funding from the KUSF, and to  
16 intervene in any commission proceeding regarding such request. The  
17 commission shall issue an order on the request within 120 days of filing.  
18 Additional funding also may be requested for: The recovery of shortfalls  
19 due to additional rebalancing of rates to continue maintenance of parity  
20 with interstate access rates; shortfalls due to changes to access revenue  
21 requirements resulting from changes in federal rules; additional investment  
22 required to provide universal service and enhanced universal service,  
23 deployed subject to subsection (a) of K.S.A. 66-2005, and amendments  
24 thereto; and for infrastructure expenditures in response to facility or  
25 service requirements established by any legislative, regulatory or judicial  
26 authority. Such requests shall be subject to simplified filing procedures and  
27 the expedited review procedures, as outlined in the stipulation attached to  
28 the order of November 19, 1990 in docket no. 127,140-U (Phase IV).

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

34 (f) Additional supplemental funding from the KUSF, other than as  
35 provided in subsection (d), may be authorized at the discretion of the  
36 commission. However, the commission may require approval of such  
37 funding to be based upon a general rate case filing. With respect to any  
38 request for additional supplemental funding from the KUSF, the  
39 commission shall act expeditiously, but shall not be subject to the ~~120-day~~  
40 *120-day* deadline set forth in subsection (d).

41 Sec. 5. K.S.A. 2011 Supp. 66-2010 is hereby amended to read as  
42 follows: 66-2010. (a) The commission shall utilize a competitive bidding  
43 process to select a neutral, competent and bonded third party to administer

1 the KUSF.

2 (b) The administrator shall be responsible for: (1) Collecting and  
3 auditing all relevant information from all qualifying telecommunications  
4 public utilities, telecommunications carriers or wireless  
5 telecommunications service providers receiving funds from or providing  
6 funds to the KUSF; (2) verifying, based on the calculations of each  
7 qualifying telecommunications carrier, telecommunications public utility  
8 or wireless telecommunications service provider, the obligation of each  
9 such qualifying carrier, utility or provider to generate the funds required by  
10 the KUSF; (3) collecting all moneys due to the KUSF from all  
11 telecommunications public utilities, telecommunications carriers and  
12 wireless telecommunications service providers in the state; ~~and~~ (4)  
13 distributing amounts on a monthly basis due to qualifying  
14 telecommunications public utilities, wireless telecommunications service  
15 providers and telecommunications carriers receiving KUSF funding; *and*  
16 *(5) administering the provisions of section 2, and amendments thereto.*

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

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

31 (e) The KUSF administrator shall be responsible to ensure that funds  
32 do not fall below the level necessary to pay all amounts collectively owed  
33 to all qualifying telecommunications public utilities, wireless  
34 telecommunications service providers and telecommunications carriers.  
35 The administrator shall have the authority to retain and invest in a prudent  
36 and reasonable manner any excess funds collected in any period to help  
37 ensure that adequate funds are available to cover amounts payable in other  
38 periods.

39 (f) (1) Before July 1, of each year, the chief executive officer of the  
40 state board of regents shall certify to the administrator of the KUSF the  
41 amount provided by appropriation acts to be expended from the KAN-ED  
42 fund for the fiscal year commencing the preceding July 1. Upon receipt of  
43 the certification of the chief executive officer of the state board of regents,

1 the KUSF administrator shall add the amount certified to the amount  
2 annually required to fund the KUSF as determined pursuant to subsection  
3 (b).

4 (2) On or before the 10<sup>th</sup> day of each month, the administrator of the  
5 KUSF shall pay from the KUSF to the state treasurer  $\frac{1}{12}$  of the amount  
6 certified by the chief executive officer of the state board of regents  
7 pursuant to subsection (a) for the fiscal year preceding the fiscal year in  
8 which the payment is made. Upon the receipt of the payment, the state  
9 treasurer shall deposit the entire amount in the state treasury and credit it  
10 to the KAN-ED fund. Any such payments shall be made after all payments  
11 required by K.S.A. 66-2008, and amendments thereto, for the month are  
12 made from the KUSF.

13 (3) Not more than the following shall be paid from the KUSF to the  
14 state treasurer pursuant to this subsection (f): In fiscal year 2006,  
15 \$10,000,000; in fiscal year 2007, \$8,000,000; in fiscal year 2008,  
16 \$6,000,000; and in fiscal year 2009, \$5,500,000.

17 (4) The provisions of this subsection (f) shall expire on June 30,  
18 2009. Thereafter, state general fund moneys shall be used to fund the  
19 KAN-ED network and such funding shall be of the highest priority along  
20 with education funding.

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

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