

## SENATE BILL No. 614

By Committee on Commerce

2-15

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AN ACT concerning the KAN-ED network; creating a funding mechanism therefor; amending K.S.A. 2001 Supp. 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. 2001 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 initial amount of the KUSF shall be comprised of local exchange carrier revenues lost as a result of rate rebalancing pursuant to subsection (c) of K.S.A. 2001 Supp. 66-2005 and amendments thereto and subsection (a) of K.S.A. 2001 Supp. 66-2007 and amendments thereto. Such revenues shall be recovered on a revenue neutral basis. The revenue neutral calculation shall be based on the volumes and revenues for the 12 months prior to September 30, 1996, adjusted for any rate changes.

(b) The commission shall require every telecommunications carrier, telecommunications public utility and wireless telecommunications service provider that provides intrastate telecommunications services to contribute to the KUSF on an equitable and nondiscriminatory basis. Any telecommunications carrier, telecommunications public utility or wireless telecommunications service provider which contributes to the KUSF may collect from customers an amount equal to such carrier's, utility's or provider's contribution, except that before January 1, 2000, no such carrier, provider or utility shall collect from customers an amount in excess of 8.89% of its intrastate retail revenues as provided in commission docket no. 190-492-U but such carrier, provider or utility may collect a lesser amount from its customer.

Prior to January 1, 2000, with respect to wireless telecommunications service providers, an equitable and nondiscriminatory rate shall be an amount equal to the rate of contributions of wireline telecommunications service providers, as determined by the commission, reduced by the percentage minutes of usage initiated and terminated entirely over the wireless network as determined by the commission. The commission shall

1 establish such rate for wireless telecommunications service providers no  
2 later than December 31, 1998. Any contributions in excess of distributions  
3 collected in any reporting year shall be applied to reduce the estimated  
4 contribution that would otherwise be necessary for the following year.

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

10 (d) The commission shall periodically review the KUSF to determine  
11 if the costs of qualified telecommunications public utilities, telecommu-  
12 nications carriers and wireless telecommunications service providers to  
13 provide local service justify modification of the KUSF. If the commission  
14 determines that any changes are needed, the commission shall modify  
15 the KUSF accordingly.

16 (e) Any qualified telecommunications carrier, telecommunications  
17 public utility or wireless telecommunications service provider may re-  
18 quest supplemental funding from the KUSF based upon a percentage  
19 increase in access lines over the 12-month period prior to the request.  
20 The supplemental funding shall be incurred for the purpose of providing  
21 services to and within the service area of the qualified telecommunica-  
22 tions carrier, telecommunications public utility or wireless telecommu-  
23 nications service provider. Supplemental funding from the KUSF shall  
24 be used for infrastructure expenditures necessary to serve additional cus-  
25 tomers within the service area of such qualifying utility, provider or car-  
26 rier. All affected parties shall be allowed to review and verify a request  
27 of such a qualified utility, carrier or provider for supplemental funding  
28 from the KUSF, and to intervene in any commission proceeding regard-  
29 ing such request. The commission shall issue an order on the request  
30 within 120 days of filing. Additional funding also may be requested for:  
31 The recovery of shortfalls due to additional rebalancing of rates to con-  
32 tinue maintenance of parity with interstate access rates; shortfalls due to  
33 changes to access revenue requirements resulting from changes in federal  
34 rules; additional investment required to provide universal service and en-  
35 hanced universal service, deployed subject to subsection (a) of K.S.A. 66-  
36 2005, and amendments thereto; and for infrastructure expenditures in  
37 response to facility or service requirements established by any legislative,  
38 regulatory or judicial authority. Such requests shall be subject to simpli-  
39 fied filing procedures and the expedited review procedures, as outlined  
40 in the stipulation attached to the order of November 19, 1990 in docket  
41 no. 127,140-U (Phase IV).

42 (f) Additional supplemental funding from the KUSF, other than as  
43 provided in subsection (e) of this section, may be authorized at the dis-

1 cretion of the commission. However, the commission may require ap-  
2 proval of such funding to be based upon a general rate case filing. With  
3 respect to any request for additional supplemental funding from the  
4 KUSF, the commission shall act expeditiously, but shall not be subject to  
5 the 120 day deadline set forth in subsection (e).

6 *(g) On and after July 1, 2001, and notwithstanding any of the other*  
7 *provisions of this act, the administrator shall, prior to dispersing any other*  
8 *funds from the KUSF, make such transfers to the KAN-ED fund as may*  
9 *be required pursuant to K.S.A. 2001 Supp. 66-2010, and amendments*  
10 *thereto.*

11 Sec. 2. K.S.A. 2001 Supp. 66-2010 is hereby amended to read as  
12 follows: 66-2010. (a) The commission shall utilize a competitive bidding  
13 process to select a neutral, competent and bonded third party to admin-  
14 ister the KUSF.

15 (b) The administrator shall be responsible for: (1) Collecting and au-  
16 diting all relevant information from all qualifying telecommunications  
17 public utilities, telecommunications carriers or wireless telecommuni-  
18 cations service providers receiving funds from or providing funds to the  
19 KUSF; (2) verifying, based on the calculations of each qualifying telecom-  
20 munications carrier, telecommunications public utility or wireless tele-  
21 communications service provider, the obligation of each such qualifying  
22 carrier, utility or provider to generate the funds required by the KUSF;  
23 (3) collecting all moneys due to the KUSF from all telecommunications  
24 public utilities, telecommunications carriers and wireless telecommuni-  
25 cations service providers in the state; and (4) distributing amounts on a  
26 monthly basis due to qualifying telecommunications public utilities, wire-  
27 less telecommunications service providers and telecommunications car-  
28 riers receiving KUSF funding.

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

33 (d) The administrator shall be authorized to maintain an action to  
34 collect any funds owed by any telecommunications carrier, public utility  
35 or wireless telecommunications provider in the district court in the county  
36 of the registered office of such carrier, utility or provider or, if such car-  
37 rier, utility or provider does not have a registered office in the state, such  
38 an action may be maintained in the county where such carrier's, utility's  
39 or provider's principal office is located. If such carrier, utility or provider  
40 has no principal office in the state, such an action may be maintained in  
41 the district court of any county in which such carrier, utility or provider  
42 provides service.

43 (e) The KUSF administrator shall be responsible to ensure that funds

1 do not fall below the level necessary to pay all amounts collectively owed  
2 to all qualifying telecommunications public utilities, wireless telecom-  
3 munications service providers and telecommunications carriers. The ad-  
4 ministrator shall have the authority to retain and invest in a prudent and  
5 reasonable manner any excess funds collected in any period to help ensure  
6 that adequate funds are available to cover amounts payable in other  
7 periods.

8 *(f) On and after July 1, 2002, the administrator shall add \$10,000,000*  
9 *to the amount annually required to fund the KUSF as determined pur-*  
10 *suant to subsection (b). The administrator shall then periodically transfer*  
11 *such amounts which are in excess of the amount necessary to fund the*  
12 *KUSF payments required to meet the demands on the KUSF pursuant to*  
13 *K.S.A. 2001 Supp. 66-2008, and amendments thereto. The administrator*  
14 *shall continue to make such transfers to the credit of the KUSF fund until*  
15 *such time as \$10,000,000 has been credited to the KAN-ED fund. The*  
16 *provision of this subsection shall expire at such time as \$10,000,000 has*  
17 *been transferred to the credit of the KAN-ED fund.*

18 Sec. 3. K.S.A. 2001 Supp. 66-2008 and 66-2010 are hereby repealed.

19 Sec. 4. This act shall take effect and be in force from and after its  
20 publication in the statute book.

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