

## SENATE BILL No. 525

By Committee on Commerce

2-13

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9 AN ACT concerning telecommunications public utility; relating to trans-  
10 mission of calling party numbers; individual customer pricing; pro-  
11 motion offers; universal service fund; amending K.S.A. 66-1,187, 66-  
12 2005 and 66-2008 and repealing the existing sections.  
13

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

15 New Section 1. (a) The commission shall require that, where tech-  
16 nically feasible, a provider of a telecommunications service must transmit  
17 the calling party number information of the calling party initiating a com-  
18 munication when it:

19 (1) Originates any voice communication that transits or terminates on  
20 the circuit-switched network of a telecommunications service provider;  
21 or

22 (2) receives calling party number information with any voice com-  
23 munication that does not terminate on its network.

24 (b) The commission shall investigate complaints alleging violations of  
25 this section and may obtain sufficient information to determine the cor-  
26 rect jurisdiction of any message associated with alleged violations of this  
27 section.

28 (1) If the commission determines that the jurisdictionally appropriate  
29 telephone number has not been transmitted as required by this section,  
30 the telecommunications service provider against whom the complaint was  
31 filed shall demonstrate that it had legitimate business purpose for not  
32 transmitting the jurisdictionally appropriate telephone number or that it  
33 was technically infeasible for the provider to transmit the number.

34 (2) If the commission determines that a telecommunications service  
35 provider has violated this section, the commission shall determine the  
36 amount of underpayment to any telecommunications service provider as  
37 a result of the violation, and shall order the violating telecommunications  
38 service provider to make payment under the applicable tariff or intercon-  
39 nection agreement, including any penalties specified therein.

40 (3) If no penalties are specified under either the applicable tariffs or  
41 interconnection agreements, the commission shall assess a civil sanction  
42 against the violating telecommunications service provider consistent with  
43 state law.

1 Sec. 2. K.S.A. 66-1,187 is hereby amended to read as follows: 66-  
2 1,187. As used in this act:

3 (a) “Broadband” means the transmission of digital signals at rates  
4 equal to or greater than 1.5 megabits per second.

5 (b) “CLASS services” means custom local area signaling services,  
6 which include automatic callback, automatic recall, calling number iden-  
7 tification, selective call rejection, selective call acceptance, selective call  
8 forwarding, distinctive ringing and customer originated trace.

9 (c) “Commission” means the state corporation commission.

10 (d) “Dialing parity” means that a person that is not an affiliate of a  
11 local exchange carrier is able to provide telecommunications services in  
12 such a manner that customers have the ability to route automatically,  
13 without the use of any access code, their telecommunications to the tel-  
14 ecommunications carrier of the customer’s designation from among two  
15 or more telecommunications carriers, including such local exchange  
16 carrier.

17 (e) “Federal act” means the federal telecommunications act of 1996,  
18 P.L. 104-104 (amending the communications act of 1934, 47 U.S.C. 151,  
19 *et seq.*)

20 (f) *“Individual customer pricing” means an agreement between a tel-*  
21 *ecomunications public utility and a retail, end-user business customer*  
22 *purchasing services with the prices, terms and conditions for the provision*  
23 *of such services determined between the telecommunications public utility*  
24 *and the customer.*

25 ~~(g)~~ (g) “ISDN” means integrated services digital network which is a  
26 network and associated technology that provides simultaneous voice and  
27 data communications over a single communications channel.

28 ~~(g)~~ (h) “LATA” has the meaning ascribed to it in the federal act.

29 ~~(h)~~ (i) “Local exchange carrier” means any telecommunications pub-  
30 lic utility or its successor providing switched telecommunications service  
31 within any local exchange service area, as approved by the commission  
32 on or before January 1, 1996. However, with respect to the Hill City  
33 exchange area, in which multiple carriers were certified by the commis-  
34 sion prior to January 1, 1996, the commission’s determination, subject to  
35 any court appeals, of which authorized carrier shall serve as the carrier  
36 of last resort will determine which carrier shall be deemed the local  
37 exchange carrier for that exchange.

38 ~~(i)~~ (j) “Number portability” has the meaning ascribed to it in the  
39 federal act.

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

- 1     ~~(k)~~ (l) “Operating area” means:
- 2     (1) In the case of a rural telephone company, operating area or service
- 3 area means such company’s study area or areas as approved by the federal
- 4 communications commission;
- 5     (2) in the case of a local exchange carrier, other than a rural telephone
- 6 company, operating area or service area means such carrier’s local
- 7 exchange service area or areas as approved by the commission.
- 8     ~~(h)~~ (m) “Rural telephone company” has the meaning ascribed to it in
- 9 the federal act, excluding any local exchange carrier which together with
- 10 all of its affiliates has 20,000 or more access lines in the state.
- 11     ~~(m)~~ (n) “Telecommunications carrier” means a corporation, com-
- 12 pany, individual, association of persons, their trustees, lessees or receivers
- 13 that provides a telecommunications service, including, but not limited to,
- 14 interexchange carriers and competitive access providers, but not including
- 15 local exchange carriers certified before January 1, 1996.
- 16     ~~(n)~~ (o) “Telecommunications public utility” means any public utility,
- 17 as defined in K.S.A. 66-104, and amendments thereto, which owns, con-
- 18 trols, operates or manages any equipment, plant or generating machinery,
- 19 or any part thereof, for the transmission of telephone messages, as defined
- 20 in K.S.A. 66-104, and amendments thereto, or the provision of telecom-
- 21 munications services in or throughout any part of Kansas.
- 22     ~~(o)~~ (p) “Telecommunications service” means the provision of a serv-
- 23 ice for the transmission of telephone messages, or two-way video or data
- 24 messages.
- 25     ~~(p)~~ (q) “Universal service” means telecommunications services and
- 26 facilities which include: single party, two-way voice grade calling; stored
- 27 program controlled switching with vertical service capability; E911 ca-
- 28 pability; tone dialing; access to operator services; access to directory as-
- 29 sistance; and equal access to long distance services.
- 30     ~~(q)~~ (r) “Enhanced universal service” means telecommunications serv-
- 31 ices, in addition to those included in universal service, which shall include:
- 32 Signaling system seven capability, with CLASS service capability; basic
- 33 and primary rate ISDN capability, or the technological equivalent; full-
- 34 fiber interconnectivity, or the technological equivalent, between central
- 35 offices; and broadband capable facilities to: All schools accredited pur-
- 36 suant to K.S.A. 72-1101 *et seq.*, and amendments thereto; hospitals as
- 37 defined in K.S.A. 65-425, and amendments thereto; public libraries; and
- 38 state and local government facilities which request broadband services.
- 39     Sec. 3. K.S.A. 66-2005 is hereby amended to read as follows: 66-
- 40 2005. (a) Each local exchange carrier shall file a network infrastructure
- 41 plan with the commission on or after January 1, 1997, and prior to January
- 42 1, 1998. Each plan, as a part of universal service protection, shall include
- 43 schedules, which shall be approved by the commission, for deployment

1 of universal service capabilities by July 1, 1998, and the deployment of  
2 enhanced universal service capabilities by July 1, 2003, as defined pur-  
3 suant to subsections (p) and (q) of K.S.A. 66-1,187, and amendments  
4 thereto, respectively. With respect to enhanced universal service, such  
5 schedules shall provide for deployment of ISDN, or its technological  
6 equivalent, or broadband facilities, only upon a firm customer order for  
7 such service, or for deployment of other enhanced universal services by  
8 a local exchange carrier. After receipt of such an order and upon com-  
9 pletion of a deployment plan designed to meet the firm order or otherwise  
10 provide for the deployment of enhanced universal service, a local  
11 exchange carrier shall notify the commission. The commission shall ap-  
12 prove the plan unless the commission determines that the proposed de-  
13 ployment plan is unnecessary, inappropriate, or not cost effective, or  
14 would create an unreasonable or excessive demand on the KUSF. The  
15 commission shall take action within 90 days. If the commission fails to  
16 take action within 90 days, the deployment plan shall be deemed ap-  
17 proved. This approval process shall continue until July 1, 2000. Each plan  
18 shall demonstrate the capability of the local exchange carrier to comply  
19 on an ongoing basis with quality of service standards to be adopted by  
20 the commission no later than January 1, 1997.

21 (b) In order to protect universal service, facilitate the transition to  
22 competitive markets and stimulate the construction of an advanced tel-  
23 ecommunications infrastructure, each local exchange carrier shall file a  
24 regulatory reform plan at the same time as it files the network infrastruc-  
25 ture plan required in subsection (a). As part of its regulatory reform plan,  
26 a local exchange carrier may elect traditional rate of return regulation or  
27 price cap regulation. Carriers that elect price cap regulation shall be ex-  
28 empt from rate base, rate of return and earnings regulation. However,  
29 the commission may resume such regulation upon finding, after a hearing,  
30 that a carrier that is subject to price cap regulation has: violated minimum  
31 quality of service standards pursuant to subsection (l) of K.S.A. 66-2002,  
32 and amendments thereto; been given reasonable notice and an oppor-  
33 tunity to correct the violation; and failed to do so. Regulatory reform plans  
34 also shall include:

35 (1) A commitment to provide existing and newly ordered point-to-  
36 point broadband services to: Any hospital as defined in K.S.A. 65-425,  
37 and amendments thereto; any school accredited pursuant to K.S.A. 72-  
38 1101 et seq., and amendments thereto; any public library; or other state  
39 and local government facilities at discounted prices close to, but not be-  
40 low, long-run incremental cost; and

41 (2) a commitment to provide basic rate ISDN service, or the tech-  
42 nological equivalent, at prices which are uniform throughout the carrier's  
43 service area. Local exchange carriers shall not be required to allow retail

1 customers purchasing the foregoing discounted services to resell those  
2 services to other categories of customers. Telecommunications carriers  
3 may purchase basic rate ISDN services, or the technological equivalent,  
4 for resale in accordance with K.S.A. 66-2003, and amendments thereto.  
5 The commission may reduce prices charged for services outlined in pro-  
6 visions (1) and (2) of this subsection, if the commitments of the local  
7 exchange carrier set forth in those provisions are not being kept.

8 (c) Subject to the commission's approval, all local exchange carriers  
9 shall reduce intrastate access charges to interstate levels as provided  
10 herein. Rates for intrastate switched access, and the imputed access por-  
11 tion of toll, shall be reduced over a three-year period with the objective  
12 of equalizing interstate and intrastate rates in a revenue neutral, specific  
13 and predictable manner. The commission is authorized to rebalance local  
14 residential and business service rates to offset the intrastate access and  
15 toll charge reductions. Any remaining portion of the reduction in access  
16 and toll charges not recovered through local residential and business serv-  
17 ice rates shall be paid out from the KUSF pursuant to K.S.A. 66-2008,  
18 and amendments thereto. Each rural telephone company shall adjust its  
19 intrastate switched access rates on March 1 of each odd-numbered year  
20 to match its interstate switched access rates, subject to the following:

21 (1) Any reduction of a rural telephone company's cost recovery due  
22 to reduction of its interstate access revenue shall be recovered from the  
23 KUSF;

24 (2) any portion of rural telephone company reductions in intrastate  
25 switched access rates which would result in an increase in KUSF recovery  
26 in a single year which exceeds .75% of intrastate retail revenues used in  
27 determining sums which may be recovered from Kansas telecommuni-  
28 cations customers pursuant to subsection (a) of K.S.A. 66-2008, and  
29 amendments thereto, shall be deferred until March 1 of the next following  
30 odd-numbered year; and

31 (3) no rural company shall be required at any time to reduce its in-  
32 trastate switched access rates below the level of its interstate switched  
33 access rates.

34 (d) Beginning March 1, 1997, each rural telephone company shall  
35 have the authority to increase annually its monthly basic local residential  
36 and business service rates by an amount not to exceed \$1 in each 12-  
37 month period until such monthly rates reach an amount equal to the  
38 statewide rural telephone company average rates for such services. The  
39 statewide rural telephone company average rates shall be the arithmetic  
40 mean of the lowest flat rate as of March 1, 1996, for local residential  
41 service and for local business service offered by each rural telephone  
42 company within the state. In the case of a rural telephone company which  
43 increases its local residential service rate or its local business service rate,

1 or both, to reach the statewide rural telephone company average rate for  
2 such services, the amount paid to the company from the KUSF shall be  
3 reduced by an amount equal to the additional revenue received by such  
4 company through such rate increase. In the case of a rural telephone  
5 company which elects to maintain a local residential service rate or a local  
6 business service rate, or both, below the statewide rural telephone com-  
7 pany average, the amount paid to the company from the KUSF shall be  
8 reduced by an amount equal to the difference between the revenue the  
9 company could receive if it elected to increase such rate to the average  
10 rate and the revenue received by the company.

11 (e) For purposes of determining sufficient KUSF support, an afford-  
12 able rate for local exchange service provided by a rural telephone com-  
13 pany subject to traditional rate of return regulation shall be determined  
14 as follows:

15 (1) For residential service, an affordable rate shall be the arithmetic  
16 mean of residential local service rates charged in this state in all exchanges  
17 served by rural telephone companies and in all exchanges in rate groups  
18 1 through 3 as of February 20, 2002, of all other local exchange carriers,  
19 weighted by the number of residential access lines to which each such  
20 rate applies, and thereafter rounded to the nearest quarter-dollar, subject  
21 to the following provisions:

22 (A) If a rural telephone company's present residential rate, including  
23 any separate charge for tone dialing, is at or above such weighted mean,  
24 such rate shall be deemed affordable prior to March 1, 2007.

25 (B) If a rural telephone company's present residential rate, including  
26 any separate charge for tone dialing, is below such average: (i) Such rate  
27 shall be deemed affordable prior to March 1, 2003; (ii) as of March 1,  
28 2003, and prior to March 1, 2004, a rate \$2 higher than the company's  
29 present residential monthly rate, but not exceeding such weighted mean,  
30 shall be deemed affordable; (iii) as of March 1, 2004, and prior to March  
31 1, 2005, a rate \$4 higher than the company's present residential monthly  
32 rate, but not exceeding such weighted mean, shall be deemed affordable;  
33 and (iv) as of March 1, 2005, and prior to March 1, 2006, a rate \$6 higher  
34 than the company's present residential monthly rate, but not exceeding  
35 such weighted mean, shall be deemed affordable.

36 (C) As of March 1, 2007, and each two years thereafter, an affordable  
37 residential service rate shall be the weighted arithmetic mean of local  
38 service rates determined as of October 1 of the preceding year in the  
39 manner hereinbefore specified, except that any increase in such mean  
40 exceeding \$2 may be satisfied by increases in a rural telephone company's  
41 residential monthly service rate not exceeding \$2 per year, effective  
42 March 1 of the year when such mean is determined, with the remainder  
43 applied at the rate of \$2 per year, but not to exceed the affordable rate.

1 (2) For single line business service at any time, an affordable rate  
2 shall be the existing rate or an amount \$3 greater than the affordable rate  
3 for residential service as determined under provision (1) of this subsection,  
4 whichever is higher, except that any increase in the business service  
5 affordable rate exceeding \$2 may be satisfied by increases in a rural telephone  
6 company's business monthly service rate not exceeding \$2 per  
7 year, effective March 1 of the year when such rate is determined, with  
8 the remainder applied at the rate of \$2 per year, but not to exceed the  
9 affordable rate.

10 (3) Any flat fee or charge imposed per line on all residential service  
11 or single line business service, or both, other than a fee or charge for  
12 contribution to the KUSF or imposed by other governmental authority,  
13 shall be added to the basic service rate for purposes of determining an  
14 affordable rate pursuant to this subsection.

15 (4) Not later than March 1, 2003, tone dialing shall be made available  
16 to all local service customers of each rural telephone company at no  
17 charge additional to any increase in the local service rate to become effective  
18 on that date. The amount of revenue received as of March 1, 2002,  
19 by a rural telephone company from the provision of tone dialing service  
20 shall be excluded from reductions in the company's KUSF support otherwise  
21 resulting pursuant to this subsection.

22 (5) A rural telephone company which raises one or more local service  
23 rates on application made after February 20, 2002, and pursuant to subsection  
24 (b) of K.S.A. 66-2007, and amendments thereto, shall have the  
25 level of its affordable rate increased by an amount equal to the amount  
26 of the increase in such rate.

27 (6) Upon motion by a rural telephone company, the commission may  
28 determine a higher affordable local residential or business rate for such  
29 company if such higher rate allows the company to provide additional or  
30 improved service to customers, but any increase in a rural telephone  
31 company's local rate attributable to the provision of increased calling  
32 scope shall not be included in any subsequent recalculation of affordable  
33 rates as otherwise provided in this subsection.

34 (7) A uniform rate for residential and single line business local service  
35 adopted by a rural telephone company shall be deemed an affordable rate  
36 for purposes of this subsection if application of such uniform rate generates  
37 revenue equal to that which would be generated by application of  
38 residential and business rates which are otherwise deemed affordable  
39 rates for such company under this subsection.

40 (8) The provisions of this subsection relating to the implementation  
41 of an affordable rate shall not apply to rural telephone companies which  
42 do not receive KUSF support. When recalculating affordable rates as  
43 provided in this subsection, the rates used shall include the actual rates

- 1 charged by rural companies that do not receive KUSF support.
- 2 (f) For regulatory reform plans in which price cap regulation has been  
3 elected, price cap plans shall have three baskets: Residential and single-  
4 line business, including touch-tone; switched access services; and miscel-  
5 laneous services. The commission shall establish price caps at the prices  
6 existing when the regulatory plan is filed subject to rate rebalancing as  
7 provided in subsection (c) for residential services, including touch-tone  
8 services, and for single-line business services, including touch-tone serv-  
9 ices, within the residential and single-line business service basket. The  
10 commission shall establish a formula for adjustments to the price caps.  
11 The commission also shall establish price caps at the prices existing when  
12 the regulatory plan is filed for the miscellaneous services basket. The  
13 commission shall approve any adjustments to the price caps for the mis-  
14 cellaneous service basket, as provided in subsection (g).
- 15 (g) On or before January 1, 1997, the commission shall issue a final  
16 order in a proceeding to determine the price cap adjustment formula that  
17 shall apply to the price caps for the local residential and single-line busi-  
18 ness and the miscellaneous services baskets and for sub-categories, if any,  
19 within those baskets. In determining this formula, the commission shall  
20 balance the public policy goals of encouraging efficiency and promoting  
21 investment in a quality, advanced telecommunications network in the  
22 state. The commission also shall establish any informational filing require-  
23 ments necessary for the review of any price cap tariff filings, including  
24 price increases or decreases within the caps, to verify such caps would  
25 not be exceeded by any proposed price change. The adjustment formula  
26 shall apply to the price caps for the local residential and single-line busi-  
27 ness basket after December 31, 1999, and to the miscellaneous services  
28 basket after December 31, 1997. The price cap formula, but not actual  
29 prices, shall be reviewed every five years.
- 30 (h) The price caps for the residential and single-line business service  
31 basket shall be capped at their initial level until January 1, 2000, except  
32 for any increases authorized as a part of the revenue neutral rate rebal-  
33 ancing under subsection (c). The price caps for this basket and for the  
34 categories in this basket, if any, shall be adjusted annually after December  
35 31, 1999, based on the formula determined by the commission under  
36 subsection (g).
- 37 (i) The price cap for the switched access service basket shall be set  
38 based upon the local exchange carrier's intrastate access tariffs as of Jan-  
39 uary 1, 1997, except for any revenue neutral rate rebalancing authorized  
40 in accordance with subsection (c). Thereafter, the cap for this basket shall  
41 not change except in connection with any subsequent revenue neutral  
42 rebalancing authorized by the commission under subsection (c).
- 43 (j) The price caps for the miscellaneous services basket shall be ad-



1   justed annually after December 31, 1997, based on the adjustment for-  
2   mula determined by the commission under subsection (g).

3   (k) A price cap is a maximum price for all services taken as a whole  
4   in a given basket. Prices for individual services may be changed within  
5   the service categories, if any, established by the commission within a  
6   basket. An entire service category, if any, within the residential and single-  
7   line business basket or miscellaneous services basket may be priced below  
8   the cap for such category. Unless otherwise approved by the commission,  
9   no service shall be priced below the price floor which will be long-run  
10   incremental cost and imputed access charges. Access charges equal to  
11   those paid by telecommunications carriers to local exchange carriers shall  
12   be imputed as part of the price floor for toll services offered by local  
13   exchange carriers on a toll service basis.

14   ~~(l) A local exchange carrier may offer promotions within an exchange~~  
15   ~~or group of exchanges. All promotions shall be approved by the commis-~~  
16   ~~sion and shall apply to all customers in a nondiscriminatory manner within~~  
17   ~~the exchange or group of exchanges. Notwithstanding any other provision~~  
18   ~~of this act, every telecommunications public utility and telecommunica-~~  
19   ~~tions carrier is authorized to offer, within an exchange or group of ex-~~  
20   ~~changes, discounted tariffed rates or promotions on any of its telecom-~~  
21   ~~munications services to a potential, existing or former customer or group~~  
22   ~~of customers in response to a competitive offer. The commission shall~~  
23   ~~approve such discounted tariffed or promotional rates. Any such dis-~~  
24   ~~counted tariffed or promotional rate shall not in total be priced below the~~  
25   ~~price floor, which will be long-run incremental cost or the tariffed rate of~~  
26   ~~each service, whichever is lower.~~

27   (m) Unless the commission authorizes price deregulation at an earlier  
28   date, intrastate toll services within the miscellaneous services basket shall  
29   continue to be regulated until the affected local exchange carrier begins  
30   to offer 1+ intraLATA dialing parity throughout its service territory, at  
31   which time intrastate toll will be price deregulated, except that prices  
32   cannot be set below the price floor.

33   (n) On or before July 1, 1997, the commission shall establish guide-  
34   lines for reducing regulation prior to price deregulation of price cap reg-  
35   ulated services in the miscellaneous services basket, the switched access  
36   services basket, and the residential and single-line business basket.

37   (o) Subsequent to the adoption of guidelines pursuant to subsection  
38   (n), the commission shall initiate a petitioning procedure under which the  
39   local exchange carrier may request rate range pricing. The commission  
40   shall act upon a petition within 21 days, subject to a 30-day suspension.  
41   The prices within a rate range shall be tariffed and shall apply to all  
42   customers in a nondiscriminatory manner in an exchange or group of  
43   exchanges.

1 (p) A local exchange carrier may petition the commission to designate  
2 an individual service or service category, if any, within the miscellaneous  
3 services basket, the switched access services basket or the residential and  
4 single-line business basket for reduced regulation. The commission shall  
5 act upon a petition for reduced regulation within 21 days, subject to a  
6 suspension period of an additional 30 days, and upon a good cause show-  
7 ing of the commission in the suspension order, or within such shorter  
8 time as the commission shall approve. The commission shall issue a final  
9 order within the 21-day period or within a 51-day period if a suspension  
10 has been issued. Following an order granting reduced regulation of an  
11 individual service or service category, the commission shall act on any  
12 request for price reductions within seven days subject to a 30-day sus-  
13 pension. The commission shall act on other requests for price cap ad-  
14 justments, adjustments within price cap plans and on new service offer-  
15 ings within 21 days subject to a 30-day suspension. Such a change will be  
16 presumed lawful unless it is determined the prices are below the price  
17 floor or that the price cap for a category, if any, within the entire basket  
18 has been exceeded.

19 (q) The commission may price deregulate within an exchange area,  
20 or at its discretion on a statewide basis, any individual service or service  
21 category upon a finding by the commission that there is a telecommuni-  
22 cations carrier or an alternative provider providing a comparable product  
23 or service, considering both function and price, in that exchange area.  
24 The commission shall act upon a petition for price deregulation within  
25 21 days, subject to a suspension period of an additional 30 days, and upon  
26 a good cause showing of the commission in the suspension order, or  
27 within such shorter time as the commission shall approve; provided that  
28 no such petition shall be filed prior to July 1997, unless the commission  
29 otherwise authorizes. The commission shall issue a final order within the  
30 21-day period or within a 51-day period if a suspension has been issued.

31 (r) Upon complaint or request, the commission may investigate a  
32 price deregulated service. The commission shall resume price regulation  
33 of a service provided in any exchange area by placing it in the appropriate  
34 service basket, as approved by the commission, upon a determination by  
35 the commission that there is no longer a telecommunications carrier or  
36 alternative provider providing a comparable product or service, consid-  
37 ering both function and price, in that exchange area.

38 (s) The commission shall require that for all local exchange carriers  
39 all such price deregulated basic intraLATA toll services be geographically  
40 averaged statewide and not be priced below the price floor established  
41 in subsection (k).

42 (t) Cost studies to determine price floors shall be performed as re-  
43 quired by the commission in response to complaints. In addition, not-

1 withstanding the exemption in subsection (b), the commission may re-  
2 quest information necessary to execute any of its obligations under the  
3 act.

4 ~~(u) A local exchange carrier may petition for individual customer pric-~~  
5 ~~ing. The commission shall respond expeditiously to the petition within a~~  
6 ~~period of not more than 30 days subject to a 30-day suspension. Not-~~  
7 ~~withstanding any other provision of this act, a telecommunications public~~  
8 ~~utility may enter into individual customer pricing agreements at any time,~~  
9 ~~including in response to a competitive offer received by a customer. In-~~  
10 ~~dividual customer pricing agreements shall be filed with the commission~~  
11 ~~within 30 days of the effective date of the agreement. The terms of such~~  
12 ~~contracts will be filed publicly except for information that would specifi-~~  
13 ~~cally identify the customer. In addition, individual customer pricing~~  
14 ~~agreements filed by a local exchange carrier shall be accompanied by a~~  
15 ~~verified statement that the price of any price regulated service offered~~  
16 ~~under the agreement is above the long run incremental cost of the service~~  
17 ~~or services offered through the agreement. The commission may review~~  
18 ~~only the pricing term of the agreement, but can reject or modify the pric-~~  
19 ~~ing term only if it finds that the price in the agreement is not above the~~  
20 ~~long-run incremental cost of the service. The agreement shall remain ef-~~  
21 ~~fective during any such review.~~

22 (v) No audit, earnings review or rate case shall be performed with  
23 reference to the initial prices filed as required herein.

24 (w) Telecommunications carriers shall not be subject to price regu-  
25 lation, except that: Access charge reductions shall be passed through to  
26 consumers by reductions in basic intrastate toll prices; and basic toll prices  
27 shall remain geographically averaged statewide. As required under K.S.A.  
28 66-131, and amendments thereto, and except as provided for in subsec-  
29 tion (c) of K.S.A. 66-2004, and amendments thereto, telecommunications  
30 carriers that were not authorized to provide switched local exchange tel-  
31 ecommunications services in this state as of July 1, 1996, including cable  
32 television operators who have not previously offered telecommunications  
33 services, must receive a certificate of convenience based upon a dem-  
34 onstration of technical, managerial and financial viability and the ability  
35 to meet quality of service standards established by the commission. Any  
36 telecommunications carrier or other entity seeking such certificate shall  
37 file a statement, which shall be subject to the commission's approval,  
38 specifying with particularity the areas in which it will offer service, the  
39 manner in which it will provide the service in such areas and whether it  
40 will serve both business customers and residential customers in such ar-  
41 eas. Any structurally separate affiliate of a local exchange carrier that  
42 provides telecommunications services shall be subject to the same regu-  
43 latory obligations and oversight as a telecommunications carrier, as long

1 as the local exchange carrier's affiliate obtains access to any services or  
2 facilities from its affiliated local exchange carrier on the same terms and  
3 conditions as the local exchange carrier makes those services and facilities  
4 available to other telecommunications carriers. The commission shall  
5 oversee telecommunications carriers to prevent fraud and other practices  
6 harmful to consumers and to ensure compliance with quality of service  
7 standards adopted for all local exchange carriers and telecommunications  
8 carriers in the state.

9 Sec. 4. K.S.A. 66-2008 is hereby amended to read as follows: 66-  
10 2008. On or before January 1, 1997, the commission shall establish the  
11 Kansas universal service fund, hereinafter referred to as the KUSF.

12 (a) The commission shall require every telecommunications carrier,  
13 telecommunications public utility and wireless telecommunications serv-  
14 ice provider that provides intrastate telecommunications services to con-  
15 tribute to the KUSF on an equitable and nondiscriminatory basis. Any  
16 telecommunications carrier, telecommunications public utility or wireless  
17 telecommunications service provider which contributes to the KUSF may  
18 collect from customers an amount equal to such carrier's, utility's or pro-  
19 vider's contribution, but such carrier, provider or utility may collect a  
20 lesser amount from its customer.

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

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

29 ~~(c) The commission shall periodically review the KUSF to determine~~  
30 ~~if the costs of qualified telecommunications public utilities, telecommu-~~  
31 ~~nications carriers and wireless telecommunications service providers to~~  
32 ~~provide local service justify modification of the KUSF. If the commission~~  
33 ~~determines that any changes are needed, the commission shall modify~~  
34 ~~the KUSF accordingly. The commission shall periodically review the~~  
35 ~~KUSF to determine if the costs of qualified telecommunications public~~  
36 ~~utilities, telecommunications carriers and wireless telecommunications~~  
37 ~~service providers to provide local service justify modification of the KUSF.~~  
38 ~~If the commission determines that any changes are needed, the commis-~~  
39 ~~sion shall modify the KUSF accordingly, except that the results of such~~  
40 ~~modifications shall not be a decrease in KUSF distribution for any local~~  
41 ~~exchange carrier that has previously had its cost of local service approved~~  
42 ~~through a commission order or stipulation pursuant to subsection (c) of~~  
43 ~~K.S.A. 66-2008, and amendments thereto, or its predecessor.~~

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

27 (e) Prior to June 30, 2006, for each local exchange carrier electing  
28 pursuant to subsection (b) of K.S.A. 66-2005, and amendments thereto,  
29 to operate under traditional rate of return regulation, all KUSF support,  
30 including any adjustment thereto pursuant to this section shall be based  
31 on such carrier's embedded costs, revenue requirements, investments and  
32 expenses.

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

40 Sec. 5. K.S.A. 66-1,187, 66-2005 and 66-2008 are hereby repealed.

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