

Adopted

Session of 2013

**HOUSE BILL No. 2201**

By Committee on Utilities and Telecommunications

2-1

1 AN ACT concerning telecommunications; relating to the state corporation  
2 commission, regulation; concerning the Kansas universal service fund,  
3 eligibility and disbursements; establishing the telecommunications  
4 study committee; amending K.S.A. 66-1,188, ~~66-2002, 66-2003 and~~  
5 66-2007 and K.S.A. 2012 Supp. 66-1,187, 66-2005, 66-2006, 66-2008  
6 and 66-2009 and repealing the existing sections.  
7

66-1,191,  
66-1,195,

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

9 New Section 1. (a) There is hereby established the  
10 telecommunications study committee. The committee shall study  
11 telecommunications issues and ensure that the public policy of Kansas, as  
12 expressed in K.S.A. 66-2001, and amendments thereto, is maintained, with  
13 priority being given to advancing statewide telecommunications  
14 infrastructure.

15 (b) The study committee shall be composed of 13 voting members, as  
16 follows: (1) The chairperson, vice-chairperson and ranking minority  
17 member of the senate committee on utilities;

18 (2) the chairperson, vice-chairperson and ranking minority member of  
19 the house committee on utilities and telecommunications;

20 (3) two members appointed by the president of the senate;

21 (4) one member appointed by the minority leader of the senate;

22 (5) three members appointed by the speaker of the house of  
23 representatives; and

24 (6) one member appointed by the minority leader of the house of  
25 representatives.

26 (c) Members shall be appointed to the study committee on or before  
27 August 1, 2013 for a term ending on June 30, 2016. The chairperson of the  
28 senate committee on utilities and the chairperson of the house committee  
29 on utilities and telecommunications shall serve as co-chairpersons of the  
30 committee. The co-chairpersons shall determine the procedures for calling  
31 a meeting to order and conducting committee business. The first meeting  
32 of the study committee shall be called by the co-chairpersons of the  
33 committee following the conclusion of the 2013 regular session of the  
34 Kansas legislature. The committee shall have the authority to meet at any  
35 time and at any place within the state on the call of the co-chairpersons.

36 (d) The provisions of the acts contained in article 12 of chapter 46 of

1 telecommunications services in or throughout any part of Kansas.

2 (o) "Telecommunications service" means the provision of a service  
3 for the transmission of telephone messages, or two-way video or data  
4 messages.

5 (p) "Universal service" means telecommunications services and  
6 facilities which include: single party, two-way voice grade calling; stored  
7 program controlled switching with vertical service capability; E-911  
8 capability; tone dialing; access to operator services; access to directory  
9 assistance; and equal access to long distance services.

10 (q) "Enhanced universal service" means telecommunications services,  
11 in addition to those included in universal service, which shall include:  
12 Signaling system seven capability, with CLASS service capability; basic  
13 and primary rate ISDN capability, or the technological equivalent; full-  
14 fiber interconnectivity, or the technological equivalent, between central  
15 offices; and broadband capable facilities to: All schools accredited  
16 pursuant to K.S.A. 72-1101 et seq., and amendments thereto; hospitals as  
17 defined in K.S.A. 65-425, and amendments thereto; public libraries; and  
18 state and local government facilities which request broadband services.

19 Sec. 3. K.S.A. 66-1,188 is hereby amended to read as follows: 66-  
20 1,188. The commission is given full power, authority and jurisdiction to  
21 supervise and control the ~~telecommunications public utilities~~ *local*  
22 *exchange carriers*, as defined in K.S.A. 66-1,187, *and amendments*  
23 *thereto*, doing business in Kansas, and is empowered to do all things  
24 necessary and convenient for the exercise of such power, authority and  
25 jurisdiction. *Notwithstanding the provisions of any other section, the*  
26 *commission shall have no jurisdiction to supervise or control*  
27 *telecommunications carriers or electing carriers except as provided for in*  
28 *subsections (y) and (z) of K.S.A. 66-2005, and amendments thereto.*

29 Sec. 4. K.S.A. 66-2002 is hereby amended to read as follows: 66-  
30 2002. The commission shall:

31 (a) Adopt a definition of "universal service" and "enhanced universal  
32 service," pursuant to subsections (p) and (q) of K.S.A. 66-1,187, *and*  
33 *amendments thereto*;

34 (b) authorize any requesting telecommunications carrier to provide  
35 local exchange or exchange access service pursuant to subsection (a) of  
36 K.S.A. 66-2003, *and amendments thereto*;

37 (c) on or before July 1, 1996, the commission shall initiate a  
38 proceeding to adopt guidelines to ensure that all telecommunications  
39 carriers and local exchange carriers preserve and enhance universal  
40 service, protect the public safety and welfare, ensure the continued quality  
41 of telecommunications services and safeguard the rights of consumers;

42 (d) review, approve and ensure compliance with network  
43 infrastructure plans submitted by local exchange carriers pursuant to

Sec. 4. See attachment 1  
Sec. 5. See attachment 2  
  
And renumbering the remaining  
sections accordingly

1 ~~partially over its own network. Facilities based carrier shall not include~~  
2 ~~any radio communication services provider licensed by the federal~~  
3 ~~communications commission to provide commercial mobile radio services;~~

4 ~~(B) "rural exchange" means any exchange in which there are fewer~~  
5 ~~than 6,000 local exchange access lines served by the electing carrier and~~  
6 ~~all facilities based carriers; and~~

7 ~~(C) "urban exchange" means any exchange in which there are 75,000~~  
8 ~~or more local exchange access lines served by the electing carrier and all~~  
9 ~~facilities based carriers.~~

10 (y) Notwithstanding the provisions of this act, *and subject to any*  
11 *applicable exemption from interconnection generally,* a  
12 telecommunications carrier is entitled to interconnection with a *local*  
13 *exchange carrier* or an electing carrier to transmit and route voice traffic  
14 between both the telecommunications carrier and the *local exchange*  
15 *carrier* or electing carrier regardless of the technology by which the voice  
16 traffic is originated by and terminated to a consumer. The commission  
17 shall afford such telecommunications carrier all substantive and procedural  
18 rights available to such carrier regarding interconnection pursuant to 47  
19 U.S.C. §§ 251 and 252 as in effect on the effective date of this act.  
20 *Nothing in this subsection shall be construed to confer jurisdiction upon*  
21 *the commission for services that are exempt from or otherwise not subject*  
22 *to commission jurisdiction.*

23 (z) (1) *Telecommunications carriers and electing carriers shall not be*  
24 *subject to regulation by the commission for the provision of*  
25 *telecommunications services, except that the commission shall retain the*  
26 *authority and jurisdiction to authorize applications, suspension or*  
27 *cancellation of certificates of public convenience and necessity to provide*  
28 *local exchange or exchange access service in the state of Kansas, but the*  
29 *commission may not use this certification authority to regulate*  
30 *telecommunications carriers or electing carriers beyond the jurisdiction*  
31 *provided the commission in this subsection.*

32 (2) *Nothing in this section shall be construed to restrict the*  
33 *commission's authority and jurisdiction to:*

34 (A) *Carry out the commission's obligations established in 47 U.S.C.*  
35 *§§ 251 and 252; and*

36 (B) *implement rules delegated to the state by the federal*  
37 *communications commission or federal law unless specifically prohibited*  
38 *by state law; or*

39 (C) *regulate intrastate switched access rates, terms and conditions,*  
40 *including the implementation of federal law concerning intercarrier*  
41 *compensation.*

42 (3) *The commission shall retain the authority and jurisdiction to:*

43 (A) *Carry out the commission's obligations pursuant to the*

1 public utilities, telecommunications carriers and wireless  
2 telecommunications providers, that are deemed eligible both under  
3 subsection (e)(1) of section 214 of the federal act and by the commission.

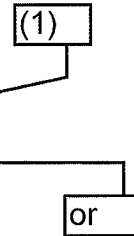
4 (c) Beginning January 1, 2014:

5 (1) Annual distributions from the KUSF for a local exchange carrier  
6 subject to price cap regulation pursuant to K.S.A. 66-2005, and  
7 amendments thereto, shall be capped at 90% of KUSF support the carrier  
8 received for the 12-month period ending February 28, 2013, not including  
9 KUSF support for Kansas lifeline service program purposes, pursuant to  
10 K.S.A. 66-2006, and amendments thereto.

11 (2) Local exchange carriers subject to price cap regulation pursuant  
12 to K.S.A. 66-2005, and amendments thereto, shall not receive KUSF  
13 support for any residential or business lines within an exchange that the  
14 commission has granted price deregulation pursuant to subsections (q)(B),  
15 (C), ~~(D)~~ or ~~(E)~~ of K.S.A. 66-2005, and amendments thereto, except for  
16 areas within any census block in such an exchange in which there is no  
17 wireline carrier providing local exchange access lines that does not  
18 receive KUSF support, not including KUSF support for Kansas lifeline  
19 service program purposes pursuant to K.S.A. 66-2006, and amendments  
20 thereto, for such access lines.

21 (3) Local exchange carriers subject to price cap regulation pursuant  
22 to K.S.A. 66-2005, and amendments thereto, shall receive the same per  
23 line, per month KUSF support as established in the April 13, 2000 notice  
24 in commission docket numbers 99-GIMT-326-GIT and 00-GIMT-236-GIT  
25 subject to the cap percentage in subsection (c)(1), not including KUSF  
26 support for Kansas lifeline service program purposes pursuant to K.S.A.  
27 66-2006, and amendments thereto, except that the amount shall be  
28 reduced by any funding received by such carrier from the federal  
29 communication commission's connect America fund II for the same  
30 household, if feasible, or for the same census block.

31 (4) The commission shall discontinue the use of the "identical  
32 support" rule and shall cap all competitive eligible telecommunications  
33 carriers' KUSF high cost support as of March 1, 2013, and beginning  
34 March 1, 2014, over a period of four years in annual equal increments,  
35 reduce to zero, beginning March 1, 2018, the amount of KUSF high cost  
36 support received by competitive eligible telecommunications carriers.  
37 Nothing in this section shall be construed to affect competitive eligible  
38 telecommunications carriers' eligibility for Kansas lifeline service  
39 program purposes pursuant to K.S.A. 66-2006, and amendments thereto.  
40 For the purposes of this subsection, "competitive eligible  
41 telecommunications carrier" means a telecommunications carrier  
42 designated by the commission as an eligible telecommunications carrier  
43 after January 1, 1998. "Competitive eligible telecommunications carrier"



1 serve the specific real property, and that such carrier has been relieved of  
2 its carrier of last resort obligations; and (2) the name of the person that will  
3 be providing local telecommunications service to the real property, and the  
4 type of technology that will be used to provide such service. An incumbent  
5 local exchange carrier may meet the carrier's obligations under this section  
6 using any available alternative technology. If any conditions described in  
7 paragraph (2) or (4) of subsection (c) again exist at the real property, the  
8 relief in paragraph (2) or (4) of subsection (c) shall again apply.

9 (6) When real property is located in a greenfield area, a carrier of last  
10 resort shall not automatically be excused from its obligations under  
11 paragraph (2) of subsection (c) unless the alternative service provider  
12 possesses or shall possess at the time of commencement of service the  
13 capability to provide local telecommunications service or the functional  
14 equivalent of such service through any form of technology.

15 (7) If an owner or developer of real property permits an alternative  
16 service provider to install its facilities or equipment used to provide local  
17 telecommunications service to such property based on a condition of  
18 exclusion of the local exchange carrier, the owner or developer must  
19 provide written notice to the purchaser of any such real property that there  
20 is an exclusion of that local exchange carrier, and that the alternative  
21 service provider is the exclusive provider of service to such property.

22 Sec. 11. K.S.A. 66-1,188, ~~66-2002, 66-2003 and 66-2007~~ and K.S.A.  
23 2012 Supp. 66-1,187, 66-2005, 66-2006, 66-2008 and 66-2009 are hereby  
24 repealed.

25 Sec. 12. This act shall take effect and be in force from and after its  
26 publication in the statute book.

66-1,191,  
66-1,195,

## 2012 Kansas Statutes

**66-1,191. Same; investigations initiated by commission; powers; hearings.** The commission, upon its own initiative, may investigate all rates, joint rates, tolls, charges and exactions, classifications or schedules of rates or joint rates and rules and regulations of telecommunications public utilities. ~~If after full hearing and investigation the commission finds that such rates, joint rates, tolls, charges or exactions, classifications or schedules of rates or joint rates or rules and regulations are unjust, unreasonable, unjustly discriminatory or unduly preferential, the commission shall have the power to fix and order substituted therefor such rates, tolls, charges, exactions, classifications or schedules of rates or joint rates and such rules and regulations as are just and reasonable.~~

If upon any investigation it is found that any regulation, measurement, practice, act or service complained of is unjust, unreasonable, unreasonably inefficient or insufficient, unduly preferential, unjustly discriminatory, or otherwise in violation of this act or of the orders of the commission, or if it is found that any service is inadequate or that any reasonable service cannot be obtained, the commission may substitute therefor such other regulations, measurements, practices, service or acts, and make such order respecting any such changes in such regulations, measurements, practices, service or acts as are just and reasonable. When, in the judgment of the commission, public necessity and convenience require, the commission may establish just and reasonable concentration or other special rates, charges or privileges, but all such rates, charges and privileges shall be open to all users of a like kind of service under similar circumstances and conditions. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act, unless, in the case of a general investigation, for good cause, the commission orders otherwise.

**History:** L. 1985, ch. 225, § 27; L. 1997, ch. 132, § 7; July 1.

over which the  
commission has  
control

**2012 Kansas Statutes**

**66-1,195. Same; general supervision and inspection of utilities; liability for damages.** The commission shall have general supervision of all telecommunications public utilities ~~doing business in this state~~ and shall inquire into any neglect or violations of the laws of this state by any ~~telecommunications public utility~~ or by the officers, agents or employees thereof. From time to time, the commission shall carefully examine and inspect the condition of each ~~telecommunications public utility, its equipment, the manner of its conduct and its management with reference to the public safety and convenience.~~ Nothing in this section shall be construed as relieving any telecommunications public utility from its responsibility or liability for damage to person or property.

**History:** L. 1985, ch. 225, § 51; July 1.

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control,

such