

MINUTES OF THE HOUSE ENERGY AND UTILITIES COMMITTEE

The meeting was called to order by Chairman Carl Holmes at 9:00 A.M. on March 18, 2011, in Room 785 of the Docking State Office Building.

All members were present.

Committee staff present:

Matt Sterling, Office of the Revisor of Statutes
Mary Torrence, Office of the Revisor of Statutes
Cindy Lash, Kansas Legislative Research Department
Corey Carnahan, Kansas Legislative Research Department
Renaë Hansen, Committee Assistant

Others attending:

Twenty three including the attached list.

Continued Action On:

SB 50-Concerning emergency communications service; relating to fees, charges, collection and distribution

Discussion ensued between Representatives: Vern Swanson, and Carl Holmes.

Representative Tom Sloan moved to amend SubSB50 on page 7 the LPGA. Seconded by Representative Vern Swanson.

Discussion ensued between Representatives: Forrest Knox, Annie Kuether, and Tom Sloan.

Matt Sterling helped answer committee questions.

Motion to amend passed.

Representative Tom Sloan moved to amend SubSB50 (Attachment 1), page 1, page 4 and page 8 addressing who provides the staff for the council. Seconded by Representative Don Hineman.

Discussion ensued between Representatives: Forrest Knox, and Tom Sloan.

Motion to amend passed.

Representative Mike Burgess moved to amend SubSB50, (Attachment 2), page 5, addressing the expenses for the grant office. Seconded by Representative Don Hineman.

Discussion ensued between Representatives: Joe Seiwert, and Tom Sloan.

Motion to amend passed.

Representative Mike Burgess moved to amend SubSB50 (Attachment 2), page 14 striking the language on lines 4-6. Seconded by Representative Stan Frownfelter.

Discussion ensued between Representatives: Mike Slattery, Tom Sloan, Forrest Knox, Annie Kuether, and Mike Burgess.

Matt Sterling helped to answer committee questions.

Motion to amend carried.

CONTINUATION SHEET

The minutes of the House Energy and Utilities Committee at 9:00 A.M. on March 18, 2011, in Room 785 of the Docking State Office Building.

Representative Mike Burgess moved to amend **SubSB50** (Attachment 2), page 10 addressing the administrative fees. Seconded by Representative Joe Seiwert.

Discussion ensued between Representatives: Joe Seiwert, Mike Slattery, Mike Burgess, Tom Sloan, Don Hineman, and Forrest Knox.

Matt Sterling helped to answer committee questions.

Motion to amend passed 12-6.

Representative Tom Sloan moved to recommend **SubSB50** as amended favorable for passage. Seconded by Representative Annie Kuether. Motion carried.

Representative Mike Burgess will carry the bill on the house floor.

Action On:

HR 6008-Opposing the Environmental Protection Agency's Regulatory train wreck

Representative Forrest Knox gave the committee an overview of the current status of some of the rules that EPA is promulgating.

Representative Forrest Knox moved to pass **HR 6008** favorably. Seconded by Representative Joe Seiwert.

Discussion ensued between Representatives: Nile Dillmore, Mike Slattery, Greg Smith, Tom Sloan, and Annie Kuether.

Representative Forrest Knox withdrew his motion.

Representative Mike Slattery moved to amend **HR6008**'s title to a resolution opposing the rate and methods of the EPA's rule making process. Seconded by Representative Tom Sloan.

Discussion ensued between Representatives: Forrest Knox, Gail Finney, Tom Sloan, and Don Schroeder

Motion to amend failed 8-10.

Representative Don Schroeder moved to amend **HR 6008** replacing "train wreck" with mandate. Seconded by Representative Joe Seiwert.

Discussion ensued between Representatives: Forrest Knox, Don Schroeder, Annie Kuether, and Reynaldo Mesa.

Motion to amend passed 11-7.

Representative Don Hineman moved to amend **HR 6008** on line 23 page 1 to insert the words gas emissions after green house. Seconded by Representative Reynaldo Mesa.

Discussion ensued between Representatives: Joe Seiwert, Annie Kuether, Vern Swanson, and Mike Slattery, Tom Sloan.

Matt Sterling helped to answer committee questions.

Motion to amend passed.

CONTINUATION SHEET

The minutes of the House Energy and Utilities Committee at 9:00 A.M. on March 18, 2011, in Room 785 of the Docking State Office Building.

Representative Mike Slattery moved to recommend **HR 6008** as amended favorably. Seconded by Representative Greg Smith. Motion passed
Representative Annie Kuether asked to be recorded as a no vote.

Representative Forrest Knox will carry the bill on the house floor.

Action on:

SubSB72- Telecommunications

Information requested of AT&T by the committee was handed out to the committee (Attachment 3).

Representative Tom Sloan moved to amend **SubSB72** (Attachment 4) page 3 line 9 to bi-directional. Seconded by Representative Annie Kuether.

Discussion ensued between Representatives: Mike Burgess, and Tom Sloan.

Motion to amend failed 7-9.

Representative Tom Sloan moved to amend **SubSB72** (Attachment 4) page 12 lines 40-43 to delete those lines. Seconded by Representative Forrest Knox.

Discussion ensued between Representatives: Forrest Knox, and Tom Sloan.

Motion to amend failed 8-9.

Representative Tom Sloan moved to amend **SubSB72** (Attachment 4) page 13 lines 8-11 to delete those lines. Seconded by Representative Stan Frownfelter.

Discussion ensued between Representatives: Mike Slattery, Tom Sloan, Forrest Knox, Stan Frownfelter, and Annie Kuether.

Motion to amend failed 3- 15.

Representative Tom Sloan moved to amend **SubSB72** (Attachment 4) page 13. Seconded by Representative Stan Frownfelter.

Discussion ensued between Representatives: Forrest Knox, Tom Sloan, Mike Burgess, Forrest Knox, Annie Kuether, Joe Seiwert, Mike Slattery, and Carl Holmes.

Matt Sterling helped to answer committee questions.

Representative Sloan noted that ubiquitous means universal.

Motion to amend withdrawn by Representative Tom Sloan and Representative Stan Frownfelter.

Representative Forrest Knox moved to table the bill. Seconded by Representative Stephen Alford. Motion failed.

Action on **SubSB72** was suspended.

The committee will reconvene on Monday March 21 at lunch recess of the house.

The meeting was adjourned at 10:56 A.M.

HOUSE ENERGY AND UTILITIES COMMITTEE GUEST LIST

DATE: March 18, 2011

Name	Representing
Mike Reelcat	Sprint
Ron Daches	Sprint
Doug Smith	KLRG
Doreen Williams	KCC
Colin Curtis	Sandstone Green
Travis Lowe	Little Giant Relocations
Dina Fisk	Verizon
Pam Springe	Curb
Scott Jones	ICCP
Tony Fortner	AT&T
George Shklar	at&t
ERIK SARTORIUS	City of Overland Park
Mike Spoth	ATT
Melissa Ward	nein law firm
Melissa Weyermann	KAC
Terry Diebolt	AT&T
John Idax	Centurylink
TOM DAY	KCC
Adam Sumner	cox
Bruce Noy	AT&T
Shirley Allen	KRITC
Steve Hahn	AT&T
Mark Schreyer	Western
Paul [Signature]	ARP

[As Amended by Senate Committee of the Whole]

Session of 2011

SUBSTITUTE FOR SENATE BILL No. 50

By Committee on Utilities

2-23

1 AN ACT concerning emergency communications service; relating to
2 fees, charges, collection and distribution; amending K.S.A. 2010
3 Supp. 12-5327, 12-5338, 12-5361, 45-221 and 75-5133 and
4 repealing the existing sections; also repealing K.S.A. 12-5303, 12-
5 5305, 12-5306, 12-5307, 12-5308 and 12-5309 and K.S.A. 2010
6 Supp. 12-5301, 12-5302, 12-5304, 12-5310, 12-5321, 12-5322, 12-
7 5323, 12-5324, 12-5325, 12-5326, 12-5327, 12-5328, 12-5329, 12-
8 5330, 12-5331, 12-5332, 12-5333, 12-5334, 12-5335, 12-5336, 12-
9 5337, 12-5351, 12-5352, 12-5353, 12-5354, 12-5355, 12-5356, 12-
10 5357, 12-5358, 12-5359 and 12-5360.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 New Section 1. (a) Sections 1 through 19 and 25, and
14 amendments thereto, shall be known and may be cited as the Kansas
15 911 act.

16 (b) This section shall take effect on and after January 1, 2012.

17 New Sec. 2. As used in the Kansas 911 act:

18 (a) "Consumer" means a person who purchases prepaid wireless
19 service in a retail transaction.

20 (b) "Department" means the Kansas department of revenue.

21 (c) "Enhanced 911 service" or "E-911 service" means an
22 emergency telephone service that generally may provide, but is not
23 limited to, selective routing, automatic number identification and
24 automatic location identification features.

25 (d) "Exchange telecommunications service" means the service
26 that provides local telecommunications exchange access to a service
27 user.

28 (e) "Governing body" means the board of county commissioners
29 of a county or the governing body of a city.

30 (f) "Kansas association of counties" or "KAC" means the
31 statewide association of counties established by K.S.A. 19-2690, and
32 amendments thereto.

HOUSE ENERGY AND UTILITIES

DATE: 3/18/2011

ATTACHMENT 1-1

SB 50—Am. by SCW

4

1 independent telephone companies; one member representing incumbent
2 local exchange carriers with over 50,000 access lines; one member
3 representing large wireless providers; one member representing VoIP
4 providers; one member recommended by the league of Kansas
5 municipalities; one member recommended by the Kansas association of
6 counties; one member recommended by the Kansas geographic
7 information systems policy board; one member recommended by
8 KAN-ED; one member recommended by the Kansas division of
9 information systems and communications; and one member, a Kansas
10 resident, recommended by the Mid-America regional council.

11 (b) The terms of office for voting members of the 911
12 coordinating council shall commence on the effective date of this act
13 and shall be subject to reappointment every three years. No voting
14 member shall serve longer than two three-year terms. A voting member
15 appointed as a replacement for another voting member may finish the
16 term of the predecessor and may serve two additional three-year terms.

17 (c) (1) The governor shall select the chair of the 911
18 coordinating council. The governor shall determine the chair's
19 compensation and the chair shall serve at the pleasure of the governor.

20 (2) The chair shall serve as the coordinator of E-911 services and
21 next generation 911 services in the state, implement statewide 911
22 planning, have the authority to sign all certifications required under 47
23 C.F.R. part 400 and administer the 911 federal grant fund and 911 state
24 maintenance fund. The chair shall serve subject to the direction of the
25 council and ensure that policies adopted by the council are carried out.
26 The chair shall serve as the liaison between the council and the LCPA.
27 The chair shall preside over all meetings of the council and assist the
28 council in effectuating the provisions of this act.

29 (d) The 911 coordinating council shall select the local collection
30 point administrator, pursuant to section 6, and amendments thereto, to
31 collect 911 fees and to distribute such fees to PSAPs and to distribute
32 911 state grant fund moneys as directed by the council. The council
33 shall determine the compensation of the LCPA. ~~The Kansas association
34 of counties shall provide the council with any staffing necessary in
35 carrying out the business of the council or effectuating the provisions of
36 this act. Upon approval by the council, the KAC shall be reimbursed
37 for any costs incurred in assisting the council.~~ The moneys used to
38 reimburse these expenses shall be paid from the 911 state grant fund,
39 pursuant to subsection (i).

SB 50—Am. by SCW

8

1 (2) to provide grants to eligible municipalities only for necessary
2 and reasonable costs incurred or to be incurred by PSAPs for: (A)
3 Implementation of enhanced 911 service and next generation 911
4 service, as defined in section 2, and amendments thereto; (B) purchase
5 of equipment and upgrades and modification to equipment used solely
6 to process the data elements of enhanced 911 service and next
7 generation 911 service, as defined in section 2, and amendments
8 thereto; and (C) maintenance and license fees for such equipment and
9 training of personnel to operate such equipment, including costs of
10 training PSAP personnel to provide effective service to all users of the
11 emergency telephone system who have communications disabilities.
12 Such costs shall not include expenditures to lease, construct, expand,
13 acquire, remodel, renovate, repair, furnish or make improvements to
14 buildings or similar facilities or for other capital outlay or equipment
15 not expressly authorized by this act.

16 (e) On or before the 10th of each month, the director of accounts
17 and reports shall transfer from the state general fund to the 911 state
18 maintenance fund interest earnings based on:

19 (1) The average daily balance of moneys in the 911 state
20 maintenance fund for the preceding month; and

21 (2) the net earnings rate of the pooled money investment portfolio
22 for the preceding month.

23 (f) All payments and disbursements from the fund shall be made
24 in accordance with appropriation acts upon warrants of the director of
25 accounts and reports issued pursuant to vouchers approved by the chair
26 or by a person or persons designated by the chair.

27 New Sec. 6. The 911 coordinating council shall select the local
28 collection point administrator. In selecting the LCPA, the council shall
29 contract with the LCPA for services for no longer than one year. The
30 council shall annually review the designation of the LCPA and the
31 contract with the LCPA for services. Notwithstanding any other
32 provision of law to the contrary, the LCPA shall not be considered a
33 state agency.

34 New Sec. 7. (a) Upon the advice and consent of the 911
35 coordinating council, the LCPA shall establish the 911 state fund and
36 the 911 state grant fund which shall not be part of the state treasury. On
37 or after the effective date of this section, the secretary of administration
38 shall certify all unobligated funds remaining in the wireless enhanced
39 911 grant fund as having originated as either federal grant moneys or

SB 50—Am. by SCW

5

1 rules and regulations necessary to effectuate the provisions of this act,
2 including, but not limited to, creating a uniform reporting form
3 designating how moneys, including 911 fees, have been spent by the
4 PSAPs, requiring service providers to notify the council pursuant to
5 subsection (j), setting standards for coordinating and purchasing
6 equipment, recommending standards for training of PSAP personnel
7 and assessing civil penalties. The chair of the council shall work with
8 the council to develop rules and regulations necessary for the
9 distribution of moneys in the 911 federal grant fund. The council shall
10 work with the chair to carry out the provisions of this act. Rules and
11 regulations necessary to begin administration of this act shall be
12 adopted by December 31, 2011.

13 (f) The council may, pursuant to rules and regulations, raise or
14 lower the 911 fee upon a finding based on information submitted on the
15 uniform reporting forms, that moneys generated by such fee are in
16 excess of or below the costs required to operate PSAPs in the state. The
17 council shall not set the 911 fee below \$.50 or above \$.60.

18 (g) The council may appoint subcommittees as necessary to
19 administer grants, oversee collection and distribution of moneys by the
20 LCPA, develop technology standards, develop training
21 recommendations and other issues as deemed necessary by the council.
22 Subcommittees, if appointed, shall include members of the council and
23 other persons as needed.

24 (h) The council may reimburse independent contractors or state
25 agencies for expenses incurred in carrying out the business of the
26 council, including salaries, that are directly attributable to effectuating
27 the provisions of this act. The moneys used to reimburse these expenses
28 shall be paid from the 911 state grant fund, pursuant to subsection (i).

29 (i) All expenses related to the council shall be paid from the 911
30 state grant fund. No more than ~~2%~~ 1.5% of the total receipts from
31 providers and the department received by the LCPA shall be used to
32 pay for such expenses. Members of the council may receive
33 reimbursement for meals and travel expenses, but shall serve without
34 other compensation with the exception of legislative members.

35 (j) Every provider shall submit contact information for the
36 provider to the council prior to January 1, 2012. Any provider that has
37 not previously provided wireless telecommunications service in this
38 state shall submit contact information for the provider to the council
39 within three months of first offering wireless telecommunications

HOUSE ENERGY AND UTILITIES

DATE: 3/18/2011

ATTACHMENT 2-1

SB 50—Am. by SCW

10

1 (b) The duty to collect the fees imposed pursuant to this act shall
2 commence January 1, 2012. Such fees shall be added to and may be
3 stated separately in billings for the subscriber account. If stated
4 separately in billings, the fees shall be labeled "911 fees."

5 (c) The provider shall have no obligation to take any legal action
6 to enforce the collection of the fees imposed by this act. The provider
7 shall provide annually to the LCPA a list of the amount of uncollected
8 911 fees along with the names and addresses of those service users
9 which carry a balance that can be determined by the provider to be
10 nonpayment of such fees.

11 (d) The fees imposed by this act shall be collected insofar as
12 practicable at the same time as, and along with, the charges for local
13 exchange, wireless, VoIP, or other service in accordance with regular
14 billing practice of the provider.

15 (e) The 911 fees and the amounts required to be collected therefor
16 are due monthly. The amount of such fees collected in one month by
17 the provider shall be remitted to the LCPA not more than 15 days after
18 the close of the calendar month. On or before the 15th day of each
19 calendar month following, a return for the preceding month shall be
20 filed with the LCPA. Such return shall be in such form and shall
21 contain such information as required by the LCPA. The provider
22 required to file the return shall deliver the return together with a
23 remittance of the amount of fees payable to the LCPA. The provider
24 shall maintain records of the amount of any such fees collected in
25 accordance with this act for a period of three years from the time the
26 fees are collected.

27 (f) The provider may retain an administrative fee of not more than
28 ~~2%~~ 1% of moneys collected from such fee.

29 (g) The provisions of this section shall not be construed to
30 apply to prepaid wireless service.

31 (h) This section shall take effect on and after January 1, 2012.

32 New Sec. 10. (a) There is hereby imposed a prepaid wireless 911
33 fee of ~~1.1%~~ 1% per retail transaction or, on and after the effective date
34 of an adjusted amount per retail transaction that is established under
35 subsection (f), such adjusted amount.

36 (b) The prepaid wireless 911 fee shall be collected by the seller
37 from the consumer with respect to each retail transaction occurring in
38 this state. The amount of the prepaid wireless 911 fee shall be either
39 separately stated on an invoice, receipt or other similar document that is

SB 50—Am. by SCW

14

1 shall be proportionately divided between the PSAPs in the county. All
2 moneys remaining after distribution and any moneys which cannot be
3 attributed to a specific PSAP shall be transferred to the 911 state grant
4 fund. ~~Prior to the distribution of fees to the PSAPs, the LCPA may~~
5 ~~retain up to 2% of all fees remitted by the providers for administrative~~
6 ~~costs.~~

7 (b) All fees remitted to the LCPA shall be deposited in the 911
8 state fund and for the purposes of this act be treated as if they are public
9 funds, pursuant to article 14 of chapter 9 of the Kansas Statutes
10 Annotated, and amendments thereto.

11 (c) All moneys in the 911 state fund that have been collected from
12 the prepaid wireless 911 fee shall be deposited in the 911 state grant
13 fund unless \$2 million of such moneys have been deposited in any
14 given year then all remaining moneys shall be distributed to the PSAPs
15 pursuant to subsection (a).

16 (d) The LCPA shall keep accurate accounts of all receipts and
17 disbursements of moneys from the 911 fees.

18 (e) Information provided by providers to the local collection point
19 administrator or to the 911 coordinating council pursuant to this act will
20 be treated as proprietary records which will be withheld from the public
21 upon request of the party submitting such records.

22 (f) The provisions of subsection (e) shall expire on July 1, 2017,
23 unless the legislature acts to reenact such provision. The provisions of
24 subsection (e) shall be reviewed by the legislature prior to July 1, 2016.

25 (g) This section shall take effect on and after January 1, 2012.

26 New Sec. 14. (a) The proceeds of the 911 fees imposed pursuant
27 to this act, and any interest earned on revenue derived from such fee,
28 shall be used only for necessary and reasonable costs incurred or to be
29 incurred by PSAPs for: (1) Implementation of 911 services; (2)
30 purchase of 911 equipment and upgrades; (3) maintenance and license
31 fees for 911 equipment; (4) training of personnel; (5) monthly recurring
32 charges billed by service suppliers; (6) installation, service
33 establishment and nonrecurring start-up charges billed by the service
34 supplier; (7) charges for capital improvements and equipment or other
35 physical enhancements to the 911 system; or (8) the original acquisition
36 and installation of road signs designed to aid in the delivery of
37 emergency service. Such costs shall not include expenditures to lease,
38 construct, expand, acquire, remodel, renovate, repair, furnish or make
39 improvements to buildings or similar facilities. Such costs shall also not



Bruce A. Ney
General Attorney-Kansas
Legal

AT&T Kansas
220 SE 6th Street, Suite 515
Topeka, Kansas 66605

T: 785.276.8413
F: 785.276.1948
bruce.ney@att.com

March 17, 2011

The Honorable Carl D. Holmes
Chair, Kansas House of Representatives
Energy and Utilities Committee

RE: Committee questions to AT&T Kansas

Dear Chairman Holmes:

The purpose of this letter is to respond to a series of questions posed to AT&T through a member, or members, of the committee in connection with the committee hearing on Substitute for Senate Bill 72. Specifically, AT&T was requested to provide:

1. AT&T employee numbers since the 1996 Telecom Act to 2011 – 1996, 2008 and 2011;
2. AT&T employee numbers by Kansas county;
3. AT&T employee numbers in urban Kansas areas;
4. Organization charts to determine where decisions are made;
5. How many employees report to the AT&T Kansas president;
6. Growth for cellular customers for AT&T in Kansas;
7. AT&T profits in 2010; and,
8. The broadband deployment percentage in each exchange of rural areas under 6,000 in population.

Preface

AT&T desires to be helpful and assist the members of the committee in understanding how AT&T operates in the state of Kansas. However, it's important to note that the communications industry today is a highly competitive marketplace. Because of this, some of the information requested is considered commercially sensitive and treated by AT&T as confidential and proprietary information. While it may appear straightforward on the face, it is information that could be used by AT&T's competitors in many ways that could negatively affect AT&T's business if publicly released or otherwise made available. With that in mind, AT&T has undertaken to provide helpful responses to the committee inquiries, but without compromising the need to protect the proprietary and commercially sensitive nature of the information sought.

HOUSE ENERGY AND UTILITIES

DATE: 3/18/2011

ATTACHMENT 3-1

Committee Requests and AT&T's Response

1. AT&T employee numbers since the 1996 Telecom Act to 2011 – 1996, 2008 and 2011.
2. AT&T employee numbers by Kansas county.
3. AT&T employee numbers in urban Kansas areas.

AT&T considers specific information concerning the geographic location and deployment of employees as requested by Committee Requests 1, 2 and 3, to be commercially sensitive, confidential and proprietary information. AT&T can provide the committee with the following responsive information.

- As of December 31, 1999, AT&T¹ had 4,261 employees in Kansas.
- As of December 31, 2010, AT&T had 1,884 employees in Kansas.²

AT&T is proud of its Kansas history. The completed and planned investments of hundreds of millions of dollars in AT&T's wired and wireless networks in the state speaks to our desire to continue offering best in class communications services in Kansas. Consumer demand and innovation have changed the communications industry forever. Pronounced consumer movement away from legacy technology has naturally given rise to a corresponding drop in labor assets, but given the correct flexibility, AT&T is determined to help create and grow the jobs of the future.

4. Organization charts to determine where decisions are made.

AT&T employs a dynamic and cross functional workforce with operations in all 50 states and in many countries around the world. Decisions are made at all levels and fall into many functional categories. AT&T considers the specific information concerning organizational charts, as requested by Committee Request 4, to be commercially sensitive, confidential and proprietary information.

5. How many employees report to the AT&T Kansas president?

AT&T Kansas President Steve Hahn has seven (7) employees that report directly to him.

¹ Southwestern Bell Telephone Company and 24 AT&T affiliated companies with employees working in Kansas.

² AT&T had 2,204 employees (from all affiliates) living in Kansas in 2009.

6. Growth for cellular customers for AT&T in Kansas.

The growth of wireless communications has exploded in Kansas - estimated at 262% since 1999. AT&T is a competitor in the fiercely competitive wireless market in Kansas and nationally. Precisely because of the competitive nature of the wireless telecommunications market in Kansas and nationally, AT&T considers the specific information concerning cellular/wireless growth for AT&T in Kansas, as requested by Committee Request 5, to be commercially sensitive, highly confidential and proprietary information.

7. AT&T profits in 2010.

AT&T Inc.'s 2010 Annual Report can be viewed at: <http://www.att.com/gen/investor-relations?pid=19234>. A copy is provided for your convenience.

8. The broadband deployment percentage in each exchange of rural areas under 6,000 in population.

AT&T is one of many providers of broadband services in Kansas and nationally. In fact, AT&T's broadband facilities have been overbuilt by competitors in a number of rural areas, as well as in larger communities. Precisely because of the competitive nature of the broadband market in Kansas and nationally, AT&T considers the specific information concerning broadband deployment, as requested by Committee Request 8, to be commercially sensitive, highly confidential and proprietary information. Detailed broadband deployment maps are also considered to be and treated as commercially sensitive, highly confidential and proprietary information.

The recent broadband mapping project completed for Kansas is a helpful resource. See: <http://connectkansas.org/index.php>. AT&T supports the expansion of broadband to rural areas and has plans to expand and improve its 3G mobile broadband network to 43 additional Kansas counties (37 of which have been identified as rural opportunity zones in SB 198, a key initiative of Governor Brownback's) by EOY 2011.

AT&T sincerely hopes and trusts the above responses will be helpful in addressing the committee's questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce A. Ney".

Bruce A. Ney
General Attorney

[As Amended by Senate Committee of the Whole]

Session of 2011

SUBSTITUTE FOR SENATE BILL No. 72

By Committee on Utilities

2-25

1 AN ACT concerning telecommunications; amending K.S.A. 50-6,103, [and
2 66-1,187] and 66-2002 and K.S.A. 2010 Supp. 79-32,138, 79-32,117 and
3 66-2005 and repealing the existing sections.
4

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

6 Section 1. K.S.A. 50-6,103 is hereby amended to read as follows: 50-
7 6,103. (a) As used in this section:

8 (1) "Express authorization" means an express, affirmative act by a
9 consumer clearly agreeing to a change in the consumer's telecommunications
10 carrier or local exchange carrier to another carrier.

11 (2) "Supplemental telecommunication services" means any property or
12 services for which any charge or assessment appears on a billing statement
13 directed to a consumer by a local exchange carrier or telecommunications
14 carrier, including but not limited to personal 800 number services, calling card
15 plans, internet advertisement and website services, voice mail services, paging
16 services, psychic services, psychic memberships, dating services or
17 memberships, travel club memberships, internet access services and service
18 maintenance plans. "Supplemental telecommunication services" does not
19 include direct dial services to which a per use charge applies.

20 (3) "Telecommunications services" has the meaning provided by K.S.A.
21 66-1,187, and amendments thereto.

22 (b) No local exchange carrier or telecommunications carrier shall submit
23 or cause to be submitted to a local exchange carrier an order to change a
24 consumer's telecommunications carrier or local exchange carrier to another
25 carrier without having obtained the express authorization of the consumer
26 authorized to make the change. The local exchange carrier or
27 telecommunications carrier requesting the change shall have the burden of
28 proving the express authorization by a preponderance of the evidence. It shall
29 not be a violation of this subsection for a local exchange carrier to assign a
30 consumer to a telecommunications carrier for purposes of intralata services
31 pursuant to order of the state corporation commission.

32 (c) No supplier shall:

33 (1) Engage in any activity, conduct or representation that has the capacity
34 to mislead, deceive or confuse the consumer, while soliciting or verifying a
35 change in a consumer's telecommunications carrier or local exchange carrier, to

SB 72—Am. by SCW 3

(h) The attorney general and the state corporation commission shall enter into a memorandum of understanding providing for the cooperation and sharing of information necessary to enforce this section against suppliers and to assist consumers under federal and state law.

(i) This section shall be part of and supplemental to the Kansas consumer protection act.

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

(a) "Broadband" means the bi-directional transmission of digital signals at rates equal to or greater than 1.5 megabits per second.

(b) "CLASS services" means custom local area signaling services, which include automatic callback, automatic recall, calling number identification, selective call rejection, selective call acceptance, selective call forwarding, distinctive ringing and customer originated trace.

(c) "Commission" means the state corporation commission.

(d) "Dialing parity" means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications carrier of the customer's designation from among two or more telecommunications carriers, including such local exchange carrier.

(e) "Federal act" means the federal telecommunications act of 1996, P.L. 104-104 (amending the communications act of 1934, 47 U.S.C. § 151, et seq.)

(f) "ISDN" means integrated services digital network which is a network and associated technology that provides simultaneous voice and data communications over a single communications channel.

(g) "LATA" has the meaning ascribed to it in the federal act.

(h) "Local exchange carrier" means any telecommunications public utility or its successor providing switched telecommunications service within any local exchange service area, as approved by the commission on or before January 1, 1996. However, with respect to the Hill City exchange area, in which multiple carriers were certified by the commission prior to January 1, 1996, the commission's determination, subject to any court appeals, of which authorized carrier shall serve as the carrier of last resort will determine which carrier shall be deemed the local exchange carrier for that exchange.

(i) "Number portability" has the meaning ascribed to it in the federal act.

(j) "I+ intraLATA dialing parity" means the ability of a local exchange service customer to specify the telecommunications or local exchange carrier that will carry the intraLATA long distance messages when that

SB 72—Am. by SCW 4

1 customer dials either "1" or "0" plus a 10-digit number.

2 (k) "Operating area" means:

3 (1) In the case of a rural telephone company, operating area or service
4 area means such company's study area or areas as approved by the federal
5 communications commission;

6 (2) in the case of a local exchange carrier, other than a rural telephone
7 company, operating area or service area means such carrier's local
8 exchange service area or areas as approved by the commission.

9 (l) "Rural telephone company" has the meaning ascribed to it in the
10 federal act, excluding any local exchange carrier which together with all of
11 its affiliates has 20,000 or more access lines in the state.

12 (m) "Telecommunications carrier" means a corporation, company,
13 individual, association of persons, their trustees, lessees or receivers that
14 provides a telecommunications service, including, but not limited to,
15 interexchange carriers and competitive access providers, but not including
16 local exchange carriers certified before January 1, 1996, except for electing
17 carriers.

18 (n) "Telecommunications public utility" means any public utility, as
19 defined in K.S.A. 66-104, and amendments thereto, which owns, controls,
20 operates or manages any equipment, plant or generating machinery, or any
21 part thereof, for the transmission of telephone messages, as defined in
22 K.S.A. 66-104, and amendments thereto, or the provision of
23 telecommunications services in or throughout any part of Kansas.

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

26 (p) "Universal service" means telecommunications services and
27 facilities which include: single party, two-way voice grade calling; stored
28 program controlled switching with vertical service capability; E911
29 capability; tone dialing; access to operator services; access to directory
30 assistance; ~~and~~ equal access to long distance services, and access to
31 broadband services by the provider or a contractor.

32 (q) "Enhanced universal service" means telecommunications services,
33 in addition to those included in universal service, which shall include:
34 Signaling system seven capability, with CLASS service capability; basic and
35 primary rate ISDN capability, ~~or~~ the technological equivalent or better; full-
36 fiber interconnectivity, or the technological equivalent, between central
37 offices; and broadband capable facilities to: All buildings of schools
38 accredited pursuant to K.S.A. 72-1101 et seq., and amendments thereto;
39 hospitals as defined in K.S.A. 65-425, and amendments thereto; public
40 libraries; and state and local government facilities which request broadband
41 services.]

42 Sec. 3. K.S.A. 66-2002 is hereby amended to read as follows: 66-2002.
43 The commission shall:

SB 72—Am. by SCW 5

- 1 (a) Adopt a definition of "universal service" and "enhanced universal
2 service," pursuant to subsections (p) and (q) of K.S.A. 66-1,187, and
3 amendments thereto;
- 4 (b) authorize any requesting telecommunications carrier to provide local
5 exchange or exchange access service pursuant to subsection (a) of K.S.A. 66-
6 2003, and amendments thereto;
- 7 (c) on or before July 1, 1996, the commission shall initiate a proceeding
8 to adopt guidelines to ensure that all telecommunications carriers and local
9 exchange carriers preserve and enhance universal service, protect the public
10 safety and welfare, ensure the continued quality of telecommunications
11 services and safeguard the rights of consumers;
- 12 (d) review, approve and ensure compliance with network infrastructure
13 plans submitted by local exchange carriers pursuant to K.S.A. 66-2005, and
14 amendments thereto;
- 15 (e) review, approve and ensure compliance with regulatory plans
16 submitted by local exchange carriers pursuant to K.S.A. 66-2005, and
17 amendments thereto;
- 18 (f) on or before January 1, 1997, establish, pursuant to K.S.A. 66-2006,
19 and amendments thereto, the Kansas lifeline service program, hereinafter
20 referred to as the KLSP;
- 21 (g) initiate and complete a proceeding by January 1, 1997, to establish a
22 competitively neutral mechanism or mechanisms to fund: dual party relay
23 services for Kansans who are speech or hearing impaired; telecommunications
24 equipment for persons with visual impediments; and telecommunications
25 equipment for persons with other special needs. This funding mechanism or
26 mechanisms shall be implemented by March 1, 1997;
- 27 (h) on or before January 1, 1997, establish the Kansas universal service
28 fund pursuant to K.S.A. 66-2008, and amendments thereto, hereinafter referred
29 to as the KUSF, and make various determinations relating to the
30 implementation of such fund;
- 31 (i) authorize all local exchange carriers to provide internet access as
32 outlined in K.S.A. 66-2011, and amendments thereto, and report on the status
33 of the implementation provisions to specified legislative committees;
- 34 (j) review the federal act and adopt additional standards and guidelines as
35 necessary for enforcing slamming restrictions;
- 36 (k) commencing on June 1, 1997 and periodically thereafter, review and,
37 to the extent necessary, modify the definition of universal service and
38 enhanced universal service, and KUSF, taking into account advances in
39 telecommunications and information technology and services;
- 40 (l) on or before January 1, 1997, initiate and complete a proceeding to
41 establish minimum quality of service standards which will be equally
42 applicable to all local exchange carriers and telecommunications carriers in the
43 state; any local exchange carrier or telecommunications carrier violating such

SB 72—Am. by SCW 6

1 standards, for each occurrence, shall forfeit and pay a penalty of not less than
2 ~~\$100~~ \$300, nor more than ~~\$5,000~~ \$15,000; violations of such standards shall
3 be enforced in accordance with provisions of K.S.A. 66-138 and 66-177, and
4 amendments thereto; and

5 (m) on January 1, 2000, prepare and submit a report to the legislature.
6 The report shall include an analysis of the manner in which the regulatory
7 framework has served to: Protect consumers; safeguard universal service;
8 ensure that consumers have reaped the benefits of competition; maximize the
9 use of market forces; and promote development of the telecommunications
10 infrastructure throughout the state. The commission also shall recommend if
11 and how the KUSF should be modified.

12 Sec. ~~2~~ ~~3~~ 4. K.S.A. 2010 Supp. 66-2005 is hereby amended to read as
13 follows: 66-2005. (a) Each local exchange carrier shall file a network
14 infrastructure plan with the commission on or after January 1, 1997, and prior
15 to January 1, 1998. Each plan, as a part of universal service protection, shall
16 include schedules, which shall be approved by the commission, for
17 deployment of universal service capabilities by July 1, 1998, and the
18 deployment of enhanced universal service capabilities by July 1, 2003, as
19 defined pursuant to subsections (p) and (q) of K.S.A. 66-1,187, and
20 amendments thereto, respectively. With respect to enhanced universal service,
21 such schedules shall provide for deployment of ISDN, ~~or~~ its technological
22 equivalent ~~or better~~, or broadband facilities, only upon a firm customer order
23 for such service, or for deployment of other enhanced universal services by a
24 local exchange carrier. After receipt of such an order and upon completion of a
25 deployment plan designed to meet the firm order or otherwise provide for the
26 deployment of enhanced universal service, a local exchange carrier shall notify
27 the commission. The commission shall approve the plan unless the
28 commission determines that the proposed deployment plan is unnecessary,
29 inappropriate, or not cost effective, or would create an unreasonable or
30 excessive demand on the KUSF. The commission shall take action within 90
31 days. If the commission fails to take action within 90 days, the deployment
32 plan shall be deemed approved. This approval process shall continue until July
33 1, 2000. Each plan shall demonstrate the capability of the local exchange
34 carrier to comply on an ongoing basis with quality of service standards to be
35 adopted by the commission no later than January 1, 1997.

36 (b) In order to protect universal service, facilitate the transition to
37 competitive markets and stimulate the construction of an advanced
38 telecommunications infrastructure, each local exchange carrier shall file a
39 regulatory reform plan at the same time as it files the network infrastructure
40 plan required in subsection (a). As part of its regulatory reform plan, a local
41 exchange carrier may elect traditional rate of return regulation or price cap
42 regulation. Carriers that elect price cap regulation shall be exempt from rate
43 base, rate of return and earnings regulation and shall not be subject to the

SB 72—Am. by SCW 7

1 provisions of K.S.A. 66-136 and 66-127, and amendments thereto, except as
2 otherwise provided in such sections. However, the commission may resume
3 such regulation upon finding, after a hearing, that a carrier that is subject to
4 price cap regulation has: violated minimum quality of service standards
5 pursuant to subsection (l) of K.S.A. 66-2002, and amendments thereto; been
6 given reasonable notice and an opportunity to correct the violation; and failed
7 to do so. Regulatory reform plans also shall include:

8 (1) A commitment to provide existing and newly ordered point-to-point
9 broadband services to: Any hospital as defined in K.S.A. 65-425, and
10 amendments thereto; ~~any~~ all school buildings accredited pursuant to K.S.A.
11 72-1101 et seq., and amendments thereto; any public library; or other state and
12 local government facilities at discounted prices close to, but not below, long-
13 run incremental cost; and

14 (2) a commitment to provide basic rate ISDN service, ~~or~~ the
15 technological equivalent ~~or better~~, at prices which are uniform throughout the
16 carrier's service area. Local exchange carriers shall not be required to allow
17 retail customers purchasing the foregoing discounted services to resell those
18 services to other categories of customers. Telecommunications carriers may
19 purchase basic rate ISDN services, or the technological equivalent, for resale
20 in accordance with K.S.A. 66-2003, and amendments thereto. The commission
21 may reduce prices charged for services outlined in provisions (1) and (2) of
22 this subsection, if the commitments of the local exchange carrier set forth in
23 those provisions are not being kept.

24 (c) Subject to the commission's approval, all local exchange carriers shall
25 reduce intrastate access charges to interstate levels as provided herein. Rates
26 for intrastate switched access, and the imputed access portion of toll, shall be
27 reduced over a three-year period with the objective of equalizing interstate and
28 intrastate rates in a revenue neutral, specific and predictable manner. The
29 commission is authorized to rebalance local residential and business service
30 rates to offset the intrastate access and toll charge reductions. Any remaining
31 portion of the reduction in access and toll charges not recovered through local
32 residential and business service rates shall be paid out from the KUSF
33 pursuant to K.S.A. 66-2008, and amendments thereto. Each rural telephone
34 company shall adjust its intrastate switched access rates on March 1 of each
35 odd-numbered year to match its interstate switched access rates, subject to the
36 following:

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

39 (2) any portion of rural telephone company reductions in intrastate
40 switched access rates which would result in an increase in KUSF recovery in a
41 single year which exceeds .75% of intrastate retail revenues used in
42 determining sums which may be recovered from Kansas telecommunications
43 customers pursuant to subsection (a) of K.S.A. 66-2008, and amendments

SB 72—Am. by SCW 12

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

16 (q) (1) Beginning July 1, 2006, price regulation of telecommunications
17 services in the residential and single-line business service basket and the
18 miscellaneous services basket for local exchange carriers subject to price cap
19 regulation shall be as follows:

20 (A) Packages or bundles of services shall be price deregulated statewide,
21 however the individual telecommunication service components of such
22 packages or bundles shall remain available for purchase on an individual basis
23 at prices subject to price cap regulation in any exchange in which the standards
24 in subsection (q)(1)(B), (C) or (D) have not been met. If standards in
25 subsection (q)(1)(B), (C) or (D) have been met, the individual
26 telecommunication service components of such packages or bundles shall
27 remain available for purchase on an individual basis and prices for packages or
28 bundles shall not exceed the sum of the highest prices of the ala carte
29 components of the package or bundle;

30 (B) in any exchange in which there are 75,000 or more local exchange
31 access lines served by all providers, rates for all telecommunications services
32 shall be price deregulated;

33 (C) in any exchange in which there are fewer than 75,000 local exchange
34 access lines served by all providers, the commission shall price deregulate all
35 business telecommunication services upon a demonstration by the requesting
36 local telecommunications carrier that there are two or more nonaffiliated
37 telecommunications carriers or other entities, that are nonaffiliated with the
38 local exchange carrier, providing local telecommunications service to business
39 customers, regardless of whether the entity provides local service in
40 conjunction with other services in that exchange area. One of such
41 nonaffiliated carriers or entities shall be required to be a facilities-based carrier
42 or entity and not more than one of such nonaffiliated carriers or entities shall
43 be a provider of commercial mobile radio services in that exchange;

(D) in any exchange in which there are fewer than 75,000 local exchange access lines served by all providers, the commission shall price deregulate all residential telecommunication services upon a demonstration by the requesting local telecommunications carrier that there are two or more nonaffiliated telecommunications carriers or other entities, that are nonaffiliated with the local exchange carrier, providing local telecommunications service to residential customers, regardless of whether the entity provides local service in conjunction with other services in that exchange area. ~~One of such nonaffiliated carriers or entities shall be required to be a facilities-based carrier or entity and not more than one of such nonaffiliated carriers or entities shall be a provider of commercial mobile radio services in that exchange;~~

(E) rates for lifeline services shall remain subject to price cap regulation;

(F) up to and continuing until July 1, 2008, rates for the initial residential local exchange access line and up to four business local exchange access lines at one location shall remain subject to price cap regulation. On and after July 1, 2008, the local exchange carrier shall be authorized to adjust such rates without commission approval by not more than the percentage increase in the consumer price index for all urban consumers, as officially reported by the bureau of labor statistics of the United States department of labor, or its successor index, in any one year period and such rates shall not be adjusted below the price floor established in subsection (k). Such rates shall not be affected by purchase of one or more of the following: Call management services, intraLATA long distance service or interLATA long distance service; and

(G) local exchange carriers shall offer a uniform price throughout each such exchange for services subject to price deregulation, under this subsection, including packages or bundles of services, except as provided in subsection (1) or as otherwise approved by the commission.

(2) For the purposes of this subsection:

(A) Any entity providing ~~ubiquitous voice and broadband~~ service shall be considered as a local telecommunications service provider regardless of whether such entity is subject to regulation by the commission;

(B) a provider of local telecommunications service that ~~requires~~ provides ~~ubiquitous broadband through the use of a third party, unaffiliated broadband network or dial-up internet network for the origination of local voice service~~ shall not may be considered a local telecommunications service provider;

(C) telecommunications carriers offering only prepaid telecommunications service shall not be considered entities providing local telecommunications service.

(3) If the services of a local exchange carrier are classified as price deregulated under this subsection, the carrier may thereafter adjust its rates for such price deregulated services upward or downward as it determines appropriate in its competitive environment, with tariffs for such services

SB 72—Am. by SCW 17

1 previously offered telecommunications services, must receive a certificate of
2 convenience based upon a demonstration of technical, managerial and
3 financial viability and the ability to meet quality of service standards
4 established by the commission. Any telecommunications carrier or other entity
5 seeking such certificate shall file a statement, which shall be subject to the
6 commission's approval, specifying with particularity the areas in which it will
7 offer service, the manner in which it will provide the service in such areas and
8 whether it will serve both business customers and residential customers in
9 such areas. Any structurally separate affiliate of a local exchange carrier that
10 provides telecommunications services shall be subject to the same regulatory
11 obligations and oversight as a telecommunications carrier, as long as the local
12 exchange carrier's affiliate obtains access to any services or facilities from its
13 affiliated local exchange carrier on the same terms and conditions as the local
14 exchange carrier makes those services and facilities available to other
15 telecommunications carriers. The commission shall oversee
16 telecommunications carriers to prevent fraud and other practices harmful to
17 consumers and to ensure compliance with quality of service standards adopted
18 for all local exchange carriers and telecommunications carriers in the state.

19 (x) (1) *Any local exchange carrier with a majority of the carrier's local*
20 *exchange access lines in the state price deregulated pursuant to subsection*
21 *(q), and that directly or indirectly provides ubiquitous broadband access, may*
22 *elect to no longer be regulated as a local exchange carrier and, not*
23 *withstanding any other provisions, upon such election shall instead be*
24 *regulated as a telecommunications carrier, except as provided in this*
25 *subsection. A local exchange carrier making such election shall be referred to*
26 *as an "electing carrier." [A local exchange carrier may make such election*
27 *by providing the commission with at least 90 days' written notice of election.*
28 *The notice of election shall include a verified statement that a majority at*
29 *least 40% of the carrier's local exchange access lines have been lost to*
30 *competitors are price deregulated. Such notification shall include*
31 *information regarding the number of access lines the carrier serves in each*
32 *of the carrier's exchanges and the number of access lines the carrier has lost*
33 *to competitors. Within 45 days of receipt of such a notification, the*
34 *commission shall review the information concerning the carrier's local*
35 *exchange access lines and upon failure of the commission, within 45 days of*
36 *receipt of the notification, to determine that a majority of such lines of the*
37 *carrier are not price deregulated the commission shall designate the carrier*
38 *as an electing carrier.]*

39 (2) *An electing carrier shall not be subject to price regulation and shall*
40 *be subject to nondiscriminatory regulation by the commission in the same*
41 *manner as and subject to no more regulation than other telecommunications*
42 *carriers operating in the state, except that the carrier shall remain subject to:*

43 (A) *The reasonable resale of retail telecommunications services, as well*

- 1 as unbundling and interconnection obligations as required by K.S.A. 66-2003,
2 and amendments thereto;
- 3 (B) the requirements of subsection (c) concerning intrastate access
4 charges;
- 5 (C) the requirements of the KLSP, as required by K.S.A. 66-2006, and
6 amendments thereto; ~~and~~
- 7 (D) shall remain eligible to receive KUSF funding;
- 8 (E) the requirements of subsection (q)(1)(G) concerning requiring the
9 carrier to offer a uniform price throughout each exchange;
- 10 (F) the requirements of 47 U.S.C. § 271 as in effect on the effective date
11 of this act; and
- 12 (G) provide ubiquitous broadband access, either directly or indirectly.
- 13 (3) An electing carrier's rates for single residential or business local
14 exchange access lines in its rural exchanges shall be no higher than the
15 average of such rates for single residential or business local exchange access
16 lines respectively in its urban exchanges. An electing carrier's rates for such
17 access lines shall not increase more than 50% of the rate increases to packages
18 or bundles of services, as defined in subsection (q)(8)(A).
- 19 (4) An electing carrier may elect to be relieved of the requirement to
20 serve as carrier of last resort, as required by K.S.A. 66-2009, and amendments
21 thereto, by providing written notification to the commission of the specific
22 urban exchanges for which the electing carrier is electing to be relieved of
23 carrier of last resort obligations, in the electing carrier's ~~urban~~ exchanges.
- 24 (5) Notwithstanding any other provision of law to the contrary, an
25 electing carrier that notifies the commission that the electing carrier chooses
26 to be relieved of carrier of last resort obligations in specific urban exchanges
27 or any local exchange carrier that does not have a carrier of last resort
28 obligation in a specific exchange shall not be eligible for KUSF funding for
29 carrier of last resort obligations, as required by K.S.A. 66-2009, and
30 amendments thereto, or high cost support in those specific exchanges, but
31 would remain eligible for KUSF support for Kansas lifeline service program
32 purposes.
- 33 (6) Notwithstanding the provisions of this subsection (x), an electing
34 carrier shall offer single residential local exchange access lines and
35 broadband services directly or by contract in the electing carrier's exchanges.
- 36 (7) For the purposes of this subsection:
- 37 (A) "Facilities based carrier" means a telecommunications carrier or
38 entity providing local telecommunications service either wholly or partially
39 over its own network. Facilities based carrier shall not include any radio
40 communication services provider licensed by the federal communications
41 commission to provide commercial mobile radio services;
- 42 (B) (A) "Rural exchange" means any exchange in which there are fewer
43 than 6,000 local exchange access lines served by ~~the electing carrier and all~~

1 ~~facilities-based carriers~~ all providers; and

2 (C) (B) "urban exchange" means any exchange in which there are
3 75,000 or more local exchange access lines served by ~~the electing carrier and~~
4 ~~all facilities-based carriers~~ all providers.

5 (y) Notwithstanding the provisions of this act, a telecommunications
6 carrier is entitled to interconnection with an electing carrier to transmit and
7 route voice traffic between both the telecommunications carrier and the
8 electing carrier regardless of the technology by which the voice traffic is
9 originated by and terminated to a consumer. The commission shall afford such
10 telecommunications carrier all substantive and procedural rights available to
11 such carrier regarding interconnection pursuant to 47 U.S.C. §§ 251 and 252
12 as in effect on the effective date of this act.

13 (z) (1) The commission shall determine the number of viable wireless
14 providers in each exchange. Viable shall include, but not be limited to,
15 customers served as a percentage of the total potential customers, staff
16 employed by wireless providers in Kansas and the facilities located in Kansas.

17 (2) The commission shall develop a procedure by which a local local
18 exchange carrier may be relieved of the carrier's carrier of last resort
19 responsibilities. Any carrier may then bid to serve as carrier of last resort in
20 those exchanges relinquished by the local exchange carrier and be eligible for
21 KUSF support. If no other carrier submits a bid, the local exchange carrier
22 shall continue to serve as the carrier of last resort with equivalent quality of
23 service for voice and broadband delivered through an alternative technology
24 approved by the commission.

25 (3) A local exchange carrier electing to be regulated as a
26 telecommunications carrier shall negotiate with public safety answering points
27 serving the affected exchanges to upgrade the PSAPs capability to receive next
28 generation communication signals. Next generation communications signals
29 shall include, but not be limited to, the ability to receive text and video.

30 (d) An electing carrier electing to be relieved of the carrier's carrier of last
31 resort obligations shall provide to the commission documentation that persons
32 with special communications needs, including, but not limited to, visual and
33 hearing impediments, within the affected exchanges have been provided
34 communications equipment that is functionally equivalent and of equal quality.

35 Sec. 6. K.S.A. 2010 Supp. 79-32,117 is hereby amended to read as
36 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
37 means such individual's federal adjusted gross income for the taxable year,
38 with the modifications specified in this section.

39 (b) There shall be added to federal adjusted gross income:

40 (i) Interest income less any related expenses directly incurred in the
41 purchase of state or political subdivision obligations, to the extent that the
42 same is not included in federal adjusted gross income, on obligations of any
43 state or political subdivision thereof, but to the extent that interest income on

SB 72—Am. by SCW 20

1 obligations of this state or a political subdivision thereof issued prior to
2 January 1, 1988, is specifically exempt from income tax under the laws of this
3 state authorizing the issuance of such obligations, it shall be excluded from
4 computation of Kansas adjusted gross income whether or not included in
5 federal adjusted gross income. Interest income on obligations of this state or a
6 political subdivision thereof issued after December 31, 1987, shall be excluded
7 from computation of Kansas adjusted gross income whether or not included in
8 federal adjusted gross income.

9 (ii) Taxes on or measured by income or fees or payments in lieu of
10 income taxes imposed by this state or any other taxing jurisdiction to the
11 extent deductible in determining federal adjusted gross income and not
12 credited against federal income tax. This paragraph shall not apply to taxes
13 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments
14 thereto, for privilege tax year 1995, and all such years thereafter.

15 (iii) The federal net operating loss deduction.

16 (iv) Federal income tax refunds received by the taxpayer if the deduction
17 of the taxes being refunded resulted in a tax benefit for Kansas income tax
18 purposes during a prior taxable year. Such refunds shall be included in income
19 in the year actually received regardless of the method of accounting used by
20 the taxpayer. For purposes hereof, a tax benefit shall be deemed to have
21 resulted if the amount of the tax had been deducted in determining income
22 subject to a Kansas income tax for a prior year regardless of the rate of
23 taxation applied in such prior year to the Kansas taxable income, but only that
24 portion of the refund shall be included as bears the same proportion to the total
25 refund received as the federal taxes deducted in the year to which such refund
26 is attributable bears to the total federal income taxes paid for such year. For
27 purposes of the foregoing sentence, federal taxes shall be considered to have
28 been deducted only to the extent such deduction does not reduce Kansas
29 taxable income below zero.

30 (v) The amount of any depreciation deduction or business expense
31 deduction claimed on the taxpayer's federal income tax return for any capital
32 expenditure in making any building or facility accessible to the handicapped,
33 for which expenditure the taxpayer claimed the credit allowed by K.S.A. 79-
34 32,177, and amendments thereto.

35 (vi) Any amount of designated employee contributions picked up by an
36 employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965, and
37 amendments to such sections.

38 (vii) The amount of any charitable contribution made to the extent the
39 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
40 32,196, and amendments thereto.

41 (viii) The amount of any costs incurred for improvements to a swine
42 facility, claimed for deduction in determining federal adjusted gross income, to
43 the extent the same is claimed as the basis for any credit allowed pursuant to

SB 72—Am. by SCW 21

1 K.S.A. 2010 Supp. 79-32,204 and amendments thereto.

2 (ix) The amount of any ad valorem taxes and assessments paid and the
3 amount of any costs incurred for habitat management or construction and
4 maintenance of improvements on real property, claimed for deduction in
5 determining federal adjusted gross income, to the extent the same is claimed as
6 the basis for any credit allowed pursuant to K.S.A. 79-32,203 and amendments
7 thereto.

8 (x) Amounts received as nonqualified withdrawals, as defined by K.S.A.
9 2010 Supp. 75-643, and amendments thereto, if, at the time of contribution to
10 a family postsecondary education savings account, such amounts were
11 subtracted from the federal adjusted gross income pursuant to paragraph (xv)
12 of subsection (c) of K.S.A. 79-32,117, and amendments thereto, or if such
13 amounts are not already included in the federal adjusted gross income.

14 (xi) The amount of any contribution made to the same extent the same is
15 claimed as the basis for the credit allowed pursuant to K.S.A. 2010 Supp. 74-
16 50,154, and amendments thereto.

17 (xii) For taxable years commencing after December 31, 2004, amounts
18 received as withdrawals not in accordance with the provisions of K.S.A. 2010
19 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an
20 individual development account, such amounts were subtracted from the
21 federal adjusted gross income pursuant to paragraph (xiii) of subsection (c), or
22 if such amounts are not already included in the federal adjusted gross income.

23 (xiii) The amount of any expenditures claimed for deduction in
24 determining federal adjusted gross income, to the extent the same is claimed as
25 the basis for any credit allowed pursuant to K.S.A. 2010 Supp. 79-32,217
26 through 79-32,220 or 79-32,222, and amendments thereto.

27 (xiv) The amount of any amortization deduction claimed in determining
28 federal adjusted gross income to the extent the same is claimed for deduction
29 pursuant to K.S.A. 2010 Supp. 79-32,221, and amendments thereto.

30 (xv) The amount of any expenditures claimed for deduction in
31 determining federal adjusted gross income, to the extent the same is claimed as
32 the basis for any credit allowed pursuant to K.S.A. 2010 Supp. 79-32,223
33 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-
34 32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-
35 32,251 through 79-32,254, and amendments thereto.

36 (xvi) The amount of any amortization deduction claimed in determining
37 federal adjusted gross income to the extent the same is claimed for deduction
38 pursuant to K.S.A. 2010 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249,
39 79-32,250 or 79-32,255, and amendments thereto.

40 (xvii) The amount of any amortization deduction claimed in determining
41 federal adjusted gross income to the extent the same is claimed for deduction
42 pursuant to K.S.A. 2010 Supp. 79-32,256, and amendments thereto.

43 (xviii) For taxable years commencing after December 31, 2006, the

SB 72—Am. by SCW 22

1 amount of any ad valorem or property taxes and assessments paid to a state
2 other than Kansas or local government located in a state other than Kansas by
3 a taxpayer who resides in a state other than Kansas, when the law of such state
4 does not allow a resident of Kansas who earns income in such other state to
5 claim a deduction for ad valorem or property taxes or assessments paid to a
6 political subdivision of the state of Kansas in determining taxable income for
7 income tax purposes in such other state, to the extent that such taxes and
8 assessments are claimed as an itemized deduction for federal income tax
9 purposes.

10 (c) There shall be subtracted from federal adjusted gross income:

11 (i) Interest or dividend income on obligations or securities of any
12 authority, commission or instrumentality of the United States and its
13 possessions less any related expenses directly incurred in the purchase of such
14 obligations or securities, to the extent included in federal adjusted gross
15 income but exempt from state income taxes under the laws of the United
16 States.

17 (ii) Any amounts received which are included in federal adjusted gross
18 income but which are specifically exempt from Kansas income taxation under
19 the laws of the state of Kansas.

20 (iii) The portion of any gain or loss from the sale or other disposition of
21 property having a higher adjusted basis for Kansas income tax purposes than
22 for federal income tax purposes on the date such property was sold or disposed
23 of in a transaction in which gain or loss was recognized for purposes of federal
24 income tax that does not exceed such difference in basis, but if a gain is
25 considered a long-term capital gain for federal income tax purposes, the
26 modification shall be limited to that portion of such gain which is included in
27 federal adjusted gross income.

28 (iv) The amount necessary to prevent the taxation under this act of any
29 annuity or other amount of income or gain which was properly included in
30 income or gain and was taxed under the laws of this state for a taxable year
31 prior to the effective date of this act, as amended, to the taxpayer, or to a
32 decedent by reason of whose death the taxpayer acquired the right to receive
33 the income or gain, or to a trust or estate from which the taxpayer received the
34 income or gain.

35 (v) The amount of any refund or credit for overpayment of taxes on or
36 measured by income or fees or payments in lieu of income taxes imposed by
37 this state, or any taxing jurisdiction, to the extent included in gross income for
38 federal income tax purposes.

39 (vi) Accumulation distributions received by a taxpayer as a beneficiary of
40 a trust to the extent that the same are included in federal adjusted gross
41 income.

42 (vii) Amounts received as annuities under the federal civil service
43 retirement system from the civil service retirement and disability fund and

SB 72—Am. by SCW 23

- 1 other amounts received as retirement benefits in whatever form which were
2 earned for being employed by the federal government or for service in the
3 armed forces of the United States.
- 4 (viii) Amounts received by retired railroad employees as a supplemental
5 annuity under the provisions of 45 U.S.C. 228b (a) and 228c (a)(1) et seq.
- 6 (ix) Amounts received by retired employees of a city and by retired
7 employees of any board of such city as retirement allowances pursuant to
8 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
9 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and
10 amendments thereto.
- 11 (x) For taxable years beginning after December 31, 1976, the amount of
12 the federal tentative jobs tax credit disallowance under the provisions of 26
13 U.S.C. 280 C. For taxable years ending after December 31, 1978, the amount
14 of the targeted jobs tax credit and work incentive credit disallowances under
15 26 U.S.C. 280 C.
- 16 (xi) For taxable years beginning after December 31, 1986, dividend
17 income on stock issued by Kansas Venture Capital, Inc.
- 18 (xii) For taxable years beginning after December 31, 1989, amounts
19 received by retired employees of a board of public utilities as pension and
20 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249 and
21 amendments thereto.
- 22 (xiii) For taxable years beginning after December 31, 2004, amounts
23 contributed to and the amount of income earned on contributions deposited to
24 an individual development account under K.S.A. 2010 Supp. 74-50,201, et
25 seq., and amendments thereto.
- 26 (xiv) For all taxable years commencing after December 31, 1996, that
27 portion of any income of a bank organized under the laws of this state or any
28 other state, a national banking association organized under the laws of the
29 United States, an association organized under the savings and loan code of this
30 state or any other state, or a federal savings association organized under the
31 laws of the United States, for which an election as an S corporation under
32 subchapter S of the federal internal revenue code is in effect, which accrues to
33 the taxpayer who is a stockholder of such corporation and which is not
34 distributed to the stockholders as dividends of the corporation.
- 35 (xv) For all taxable years beginning after December 31, 2006, amounts
36 not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for
37 each designated beneficiary which are contributed to a family postsecondary
38 education savings account established under the Kansas postsecondary
39 education savings program or a qualified tuition program established and
40 maintained by another state or agency or instrumentality thereof pursuant to
41 section 529 of the internal revenue code of 1986, as amended, for the purpose
42 of paying the qualified higher education expenses of a designated beneficiary
43 at an institution of postsecondary education. The terms and phrases used in this

SB 72—Am. by SCW 24

1 paragraph shall have the meaning respectively ascribed thereto by the
2 provisions of K.S.A. 2010 Supp. 75-643, and amendments thereto, and the
3 provisions of such section are hereby incorporated by reference for all
4 purposes thereof.

5 (xvi) For the tax year beginning after December 31, 2004, an amount not
6 exceeding \$500; for the tax year beginning after December 31, 2005, an
7 amount not exceeding \$600; for the tax year beginning after December 31,
8 2006, an amount not exceeding \$700; for the tax year beginning after
9 December 31, 2007, an amount not exceeding \$800; for the tax year beginning
10 December 31, 2008, an amount not exceeding \$900; and for all taxable years
11 commencing after December 31, 2009, an amount not exceeding \$1,000 of the
12 premium costs for qualified long-term care insurance contracts, as defined by
13 subsection (b) of section 7702B of public law 104-191.

14 (xvii) For all taxable years beginning after December 31, 2004, amounts
15 received by taxpayers who are or were members of the armed forces of the
16 United States, including service in the Kansas army and air national guard, as
17 a recruitment, sign up or retention bonus received by such taxpayer as an
18 incentive to join, enlist or remain in the armed services of the United States,
19 including service in the Kansas army and air national guard, and amounts
20 received for repayment of educational or student loans incurred by or
21 obligated to such taxpayer and received by such taxpayer as a result of such
22 taxpayer's service in the armed forces of the United States, including service in
23 the Kansas army and air national guard.

24 (xviii) For all taxable years beginning after December 31, 2004, amounts
25 received by taxpayers who are eligible members of the Kansas army and air
26 national guard as a reimbursement pursuant to K.S.A. 48-281, and
27 amendments thereto, and amounts received for death benefits pursuant to
28 K.S.A. 48-282, and amendments thereto, or pursuant to section 1 or section 2
29 of chapter 207 of the 2005 session laws of Kansas, and amendments thereto, to
30 the extent that such death benefits are included in federal adjusted gross
31 income of the taxpayer.

32 (xix) For the taxable year beginning after December 31, 2006, amounts
33 received as benefits under the federal social security act which are included in
34 federal adjusted gross income of a taxpayer with federal adjusted gross income
35 of \$50,000 or less, whether such taxpayer's filing status is single, head of
36 household, married filing separate or married filing jointly; and for all taxable
37 years beginning after December 31, 2007, amounts received as benefits under
38 the federal social security act which are included in federal adjusted gross
39 income of a taxpayer with federal adjusted gross income of \$75,000 or less,
40 whether such taxpayer's filing status is single, head of household, married
41 filing separate or married filing jointly.

42 (xx) Amounts received by retired employees of Washburn university as
43 retirement and pension benefits under the university's retirement plan.

1 (xxi) For all taxable years beginning after December 31, 2010, the
2 amount included in federal taxable income attributable to capital gains on the
3 sale or exchange of capital assets which would otherwise be included gross
4 income of a taxpayer. For the purposes of this subsection, "capital assets"
5 means an exchange sold by a local exchange carrier or an electing carrier to a
6 Kansas rural telephone company.

7 (d) There shall be added to or subtracted from federal adjusted gross
8 income the taxpayer's share, as beneficiary of an estate or trust, of the Kansas
9 fiduciary adjustment determined under K.S.A. 79-32,135, and amendments
10 thereto.

11 (e) The amount of modifications required to be made under this section
12 by a partner which relates to items of income, gain, loss, deduction or credit of
13 a partnership shall be determined under K.S.A. 79-32,131, and amendments
14 thereto, to the extent that such items affect federal adjusted gross income of
15 the partner.

16 Sec. 7. K.S.A. 2010 Supp. 79-32,138 is hereby amended to read as
17 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable under
18 this act shall be the corporation's federal taxable income for the taxable year
19 with the modifications specified in this section.

20 (b) There shall be added to federal taxable income: (i) The same
21 modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and
22 amendments thereto, with respect to resident individuals.

23 (ii) The amount of all depreciation deductions claimed for any property
24 upon which the deduction allowed by K.S.A. 2010 Supp. 79-32,221, 79-
25 32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256,
26 and amendments thereto, is claimed.

27 (iii) The amount of any charitable contribution deduction claimed for any
28 contribution or gift to or for the use of any racially segregated educational
29 institution.

30 (c) There shall be subtracted from federal taxable income: (i) The same
31 modifications as are set forth in subsection (c) of K.S.A. 79-32,117, and
32 amendments thereto, with respect to resident individuals.

33 (ii) The federal income tax liability for any taxable year commencing
34 prior to December 31, 1971, for which a Kansas return was filed after
35 reduction for all credits thereon, except credits for payments on estimates of
36 federal income tax, credits for gasoline and lubricating oil tax, and for foreign
37 tax credits if, on the Kansas income tax return for such prior year, the federal
38 income tax deduction was computed on the basis of the federal income tax
39 paid in such prior year, rather than as accrued. Notwithstanding the foregoing,
40 the deduction for federal income tax liability for any year shall not exceed that
41 portion of the total federal income tax liability for such year which bears the
42 same ratio to the total federal income tax liability for such year as the Kansas
43 taxable income, as computed before any deductions for federal income taxes

SB 72—Am. by SCW 26

1 and after application of subsections (d) and (e) of this section as existing for
2 such year, bears to the federal taxable income for the same year.

3 (iii) An amount for the amortization deduction allowed pursuant to
4 K.S.A. 2010 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249,
5 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.

6 (iv) For all taxable years commencing after December 31, 1987, the
7 amount included in federal taxable income pursuant to the provisions of
8 section 78 of the internal revenue code.

9 (v) For all taxable years commencing after December 31, 1987, 80% of
10 dividends from corporations incorporated outside of the United States or the
11 District of Columbia which are included in federal taxable income.

12 (vi) For all taxable years beginning after December 31, 2010, the amount
13 included in federal taxable income attributable to capital gains on the sale or
14 exchange of capital assets which would otherwise be included gross income of
15 a taxpayer. For the purposes of this subsection, "capital assets" means an
16 exchange sold by a local exchange carrier or an electing carrier to a Kansas
17 rural telephone company.

18 (d) If any corporation derives all of its income from sources within
19 Kansas in any taxable year commencing after December 31, 1979, its Kansas
20 taxable income shall be the sum resulting after application of subsections (a)
21 through (c) hereof. Otherwise, such corporation's Kansas taxable income in
22 any such taxable year, after excluding any refunds of federal income tax and
23 before the deduction of federal income taxes provided by subsection (c)(ii)
24 shall be allocated as provided in K.S.A. 79-3271 to K.S.A. 79-3293, inclusive,
25 and amendments thereto, plus any refund of federal income tax as determined
26 under paragraph (iv) of subsection (b) of K.S.A. 79-32,117, and amendments
27 thereto, and minus the deduction for federal income taxes as provided by
28 subsection (c)(ii) shall be such corporation's Kansas taxable income.

29 (e) A corporation may make an election with respect to its first taxable
30 year commencing after December 31, 1982, whereby no addition
31 modifications as provided for in subsection (b)(ii) of K.S.A. 79-32,138 and
32 subtraction modifications as provided for in subsection (c)(iii) of K.S.A. 79-
33 32,138, as those subsections existed prior to their amendment by this act, shall
34 be required to be made for such taxable year.

35 Sec. 3. ~~[4.] 8.~~ K.S.A. 66-2002,50-6,103 [and 66-1,187] and K.S.A. 2010
36 Supp. 66-2005, 79-32,138 and 79-32,117 are hereby repealed.

37 Sec. 4. ~~[5.] 9.~~ This act shall take effect and be in force from and after its
38 publication in the statute book.

39