

1 ENGROSSED SENATE AMENDMENT  
TO

2 ENGROSSED HOUSE  
BILL NO. 2616

By: Thomsen, Roberts (Dustin),  
Condit, Cannaday and Hoskin  
of the House

and

Fields of the Senate

8 An Act relating to telecommunications; amending 17  
9 O.S. 2011, Section 137.3, \*\*\*for certain requests for  
10 OUSF funding; providing for payment within certain  
11 timeframe; \*\*\*for determining certain credit amount;  
12 making certain providers eligible for certain  
13 reimbursement; establishing the credit amount for  
14 certain eligible services;\*\*\*circumstances; repealing  
15 17 O.S. 2011, Section 139.109, as last amended by  
16 Section 2, Chapter 182,\*\*\*; and declaring an  
17 emergency.

15 AUTHORS: Add the following Senate Coauthors: Brooks and Paddack

16 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and  
entire bill and insert

18 "An Act relating to telecommunications; amending 17  
19 O.S. 2011, Section 137.3, which relates to the  
20 assessment of a universal service fee; changing  
21 entities required to pay a universal service fee;  
22 amending 17 O.S. 2011, Sections 139.101 and 139.102,  
23 as last amended by Section 1, Chapter 245, O.S.L.  
24 2014, 139.106 and 139.107 (17 O.S. Supp. 2015,  
Section 139.102), which relate to the Oklahoma  
Telecommunications Act of 1997; modifying short  
title; modifying definitions; adding definitions;  
changing entities required to pay a certain Oklahoma  
Universal Service Fund (OUSF) charge; deleting  
certain reconsideration or refund process; requiring  
certain determination of funding by the OUSF

1 Administrator; providing for approval in certain  
2 circumstances; providing for payment of OUSF funding;  
3 establishing procedures for certain requests for OUSF  
4 funding; providing for payment within certain  
5 timeframe; establishing process for reconsideration  
6 of funding; providing for certain interest payment;  
7 defining certain term; updating statutory citations;  
8 modifying source of certain funding; modifying  
9 funding requirements for the Oklahoma Lifeline Fund  
10 and the Oklahoma Universal Service Fund; changing  
11 entities required to provide funding; modifying basis  
12 for funding; establishing assessment method for Voice  
13 over Internet Protocol services; authorizing the  
14 Corporation Commission to modify contribution  
15 methodology; specifying Division of the Commission  
16 required to provide administration; requiring  
17 Administrator to be independent evaluator;  
18 authorizing Administrator to enter into certain  
19 contracts; providing services that are Special  
20 Universal Services; establishing criteria for  
21 determining certain credit amount; making certain  
22 providers eligible for certain reimbursement;  
23 establishing the credit amount for certain eligible  
24 services; defining certain term; establishing  
competitive bidding requirements; requiring a fair  
and open process; listing services which shall be  
competitively bid; requiring competitive bidding for  
certain eligible services under certain  
circumstances; exempting certain eligible services;  
precluding new competitive bidding under certain  
circumstances; authorizing the Administrator to  
investigate Special Universal Service funding  
requests; establishing criteria for the OUSF  
beneficiary approval process; providing for  
administrative approval process; providing for  
issuance of an approval funding letter by the OUSF  
Administrator; providing for certain adjustments;  
establishing criteria for the eligible provider  
reimbursement process; directing the OUSF  
Administrator to maintain certain information on a  
website; limiting funding for eligible services;  
providing for changes in costs; precluding  
requirement for a Commission order in certain  
circumstances; repealing 17 O.S. 2011, Section  
139.109, as last amended by Section 2, Chapter 182,  
O.S.L. 2014 (17 O.S. Supp. 2015, Section 139.109),

1           which relates to certain funds; providing for  
2           codification; and declaring an emergency.

3  
4  
5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

6           SECTION 1.        AMENDATORY        17 O.S. 2011, Section 137.3, is  
7 amended to read as follows:

8           Section 137.3 The Corporation Commission may, after notice and  
9 hearing, assess a universal service fee upon all contributing  
10 providers ~~of telecommunications services,~~ as defined by the rules of  
11 the Corporation Commission, and upon cellular and other radio  
12 ~~carriers,~~ in Section 139.102 of this title to support state and  
13 federal universal service objectives.

14          SECTION 2.        AMENDATORY        17 O.S. 2011, Section 139.101, is  
15 amended to read as follows:

16          Section 139.101. ~~Sections 139.101 through 139.109 and Section 3~~  
17 ~~of this~~ This act shall be known and may be cited as the "Oklahoma  
18 Telecommunications Act of 1997".

19          SECTION 3.        AMENDATORY        17 O.S. 2011, Section 139.102, as  
20 last amended by Section 1, Chapter 245, O.S.L. 2014 (17 O.S. Supp.  
21 2015, Section 139.102), is amended to read as follows:

22          Section 139.102. As used in the Oklahoma Telecommunications Act  
23 of 1997:

1 1. "Access line" means the ~~facility~~ facilities provided and  
2 maintained by a telecommunications service provider which ~~permits~~  
3 permit access to or from the public switched network or its  
4 functional equivalent regardless of the technology or medium used;

5 2. "Administrative process" means an administrative application  
6 process which allows eligible local exchange telecommunications  
7 providers and eligible providers to request funding and an  
8 administrative submission process that allows Oklahoma Universal  
9 Service Fund Beneficiaries to submit a pre-approval request directly  
10 with the Administrator. Both of the administrative processes shall  
11 not require an order from the Commission to determine eligibility  
12 for, allocate or disburse funds unless a request for reconsideration  
13 is filed;

14 3. "Administrator" means the Director of the Public Utility  
15 Division of the Corporation Commission;

16 4. "Commission" means the Corporation Commission of this state;

17 ~~3.~~ 5. "Competitive local exchange carrier" or "CLEC" means,  
18 with respect to an area or exchange, a telecommunications service  
19 provider that is certificated by the Commission to provide local  
20 exchange services in that area or exchange within the state after  
21 July 1, 1995;

22 ~~4.~~ 6. "Competitively neutral" means not advantaging or favoring  
23 one person or technology over another;

1        ~~5.~~ 7. "Consortium" means, as used in Section 6 of this act, two  
2 or more Oklahoma Universal Service Fund Beneficiaries that choose to  
3 request support under the Federal Universal Service Support  
4 Mechanism or successor program or programs as a single entity;

5        8. "Contributing providers" means providers, including but not  
6 limited to providers of intrastate telecommunications, providers of  
7 intrastate telecommunications for a fee on a non-common-carrier  
8 basis, providers of wireless telephone service, and providers of  
9 interconnected Voice over Internet Protocol (VoIP). Contributing  
10 providers shall contribute to the Oklahoma Universal Service Fund  
11 and Oklahoma Lifeline Fund. VoIP providers shall be assessed only  
12 as provided for in the decision of the Federal Communications  
13 Commission, FCC 10-185, released November 5, 2010, or such other  
14 assessment methodology that is not inconsistent with federal law.  
15 Entities exempt from contributing to the Federal Universal Service  
16 Support Mechanisms are also exempt from contributing to the Oklahoma  
17 Universal Service Fund and Oklahoma Lifeline Fund consistent with 47  
18 C.F.R., Section 54.706(d). The term "contributing providers" may be  
19 modified to conform to the definition of contributors as defined by  
20 the FCC if adopted by the Commission, after notice and hearing;

21        9. "Eligible healthcare entity" means a not-for-profit  
22 hospital, county health department, city-county health department,  
23 not-for-profit mental health and substance abuse facility or  
24 Federally Qualified Health Center in Oklahoma. Eligible healthcare

1 entity shall also include telemedicine services provided by the  
2 Oklahoma Department of Corrections at facilities identified in  
3 Section 509 of Title 57 of the Oklahoma Statutes;

4 10. "Eligible local exchange telecommunications service  
5 provider" means ILEC, CLEC and commercial radio mobile service  
6 provider as those terms are used in the Oklahoma Telecommunications  
7 Act of 1997;

8 11. "Eligible provider" means for purposes of Special Universal  
9 Services, providers of telecommunications services which hold a  
10 certificate of convenience and necessity and OneNet;

11 12. "End User Common Line Charge" means the flat-rate monthly  
12 interstate access charge required by the Federal Communications  
13 Commission that contributes to the cost of local service;

14 ~~6.~~ 13. "Enhanced service" means a service that is delivered  
15 over communications transmission facilities and that uses computer  
16 processing applications to:

- 17 a. change the content, format, code, or protocol of  
18 transmitted information,  
19 b. provide the customer new or restructured information,  
20 or  
21 c. involve end-user interaction with information stored  
22 in a computer;

23 ~~7.~~ 14. "Exchange" means a geographic area established by an  
24 incumbent local exchange telecommunications provider as filed with

1 or approved by the Commission for the administration of local  
2 telecommunications service in a specified area which usually  
3 embraces a city, town, or village and its environs and which may  
4 consist of one or more central offices together with associated  
5 plant used in furnishing telecommunications service in that area;

6 ~~8.~~ 15. "Facilities" means all the plant and equipment of a  
7 telecommunications service provider, including all tangible and  
8 intangible real and personal property without limitation, and any  
9 and all means and instrumentalities in any manner owned, operated,  
10 leased, licensed, used, controlled, furnished, or supplied for, by,  
11 or in connection with the ~~regulated~~ business of any  
12 telecommunications service provider;

13 ~~9.~~ 16. "Federally Qualified Health Center (FQHC)" means an  
14 entity which:

15 a. is receiving a grant under Section 330 of the Public  
16 Health Service (PHS) Act, 42 U.S.C., Section 254b, or  
17 is receiving funding from a grant under a contract  
18 with the recipient of such a grant and meets the  
19 requirements to receive a grant under Section 330 of  
20 the PHS Act,

21 b. based on the recommendation of the Health Resources  
22 and Services Administration within the Public Health  
23 Service, is determined by the Secretary of the  
24 Department of Health and Human Services to meet the

1 requirements for receiving a grant as described in  
2 subparagraph a of this paragraph,

3 c. was treated by the Secretary of the Department of  
4 Health and Human Services, for purposes of part B of  
5 Section 330 of the PHS Act, as a comprehensive  
6 federally funded health center as of January 1, 1990,  
7 or

8 d. is an outpatient health program or facility operated  
9 by a tribe or tribal organization under the Indian  
10 Self-Determination Act, 25 U.S.C., Section 450f et  
11 seq., or by an urban Indian organization receiving  
12 funds under Title V of the Indian Health Care  
13 Improvement Act, 25 U.S.C., Section 1651 et seq.;

14 17. "Federal Universal Service Support Mechanism" is the  
15 support program established by the Telecommunications Act of 1996,  
16 47 U.S.C., Section 254(h). The program includes support for  
17 schools, libraries and healthcare providers;

18 18. "Funding year" means for purposes of administering the  
19 Oklahoma Universal Service Fund, the period of July 1 through June  
20 30;

21 19. "High speed Internet access service" or "broadband service"  
22 means, as used in Section 139.110 of this title, those services and  
23 underlying facilities that provide upstream, from customer to  
24 provider, or downstream, from provider to customer, transmission to

1 or from the Internet in excess of one hundred fifty (150) kilobits  
2 per second, regardless of the technology or medium used including,  
3 but not limited to, wireless, copper wire, fiber optic cable, or  
4 coaxial cable, to provide such service;

5 ~~10.~~ 20. "Hospital" means a healthcare entity that has been  
6 granted a license as a hospital by the Oklahoma Department of Health  
7 for that particular location;

8 ~~11.~~ 21. "Incumbent local exchange telecommunications service  
9 provider" or "ILEC" means, with respect to an area or exchanges, any  
10 telecommunications service provider furnishing local exchange  
11 service in such area or exchanges within this state on July 1, 1995,  
12 pursuant to a certificate of convenience and necessity or  
13 grandfathered authority;

14 ~~12.~~ 22. "Installation charge" means any charge for a  
15 nonrecurring service charged by an eligible provider necessary to  
16 initiate Special Universal Services. Installation charges may not  
17 exceed the cost which would be charged for installation, if the cost  
18 were not being paid for by the OUSF;

19 23. "Interexchange telecommunications carrier" or "IXC" means  
20 any person, firm, partnership, corporation or other entity, except  
21 an incumbent local exchange telecommunications service provider,  
22 engaged in furnishing regulated interexchange telecommunications  
23 services under the jurisdiction of the Commission;

24

1       ~~13.~~ 24. "Internet" means the international research-oriented  
2 network comprised of business, government, academic and other  
3 networks;

4       ~~14.~~ 25. "Local exchange telecommunications service" means a  
5 regulated switched or dedicated telecommunications service which  
6 originates and terminates within an exchange or an exchange service  
7 territory. Local exchange telecommunications service may be  
8 terminated by a telecommunications service provider other than the  
9 telecommunications service provider on whose network the call  
10 originated. The local exchange service territory defined in the  
11 originating provider's tariff shall determine whether the call is  
12 local exchange service;

13       ~~15.~~ 26. "Local exchange telecommunications service provider"  
14 means a company holding a certificate of convenience and necessity  
15 from the Commission to provide local exchange telecommunications  
16 service;

17       ~~16.~~ 27. "Not-for-profit hospital" means:

- 18           a. a hospital located in this state which has been  
19           licensed as a hospital at that location pursuant to  
20           Section 1-701 et seq. of Title 63 of the Oklahoma  
21           Statutes for the diagnosis, treatment, or care of  
22           patients in order to obtain medical care, surgical  
23           care or obstetrical care and which is established as  
24           exempt from taxation pursuant to the provisions of the

1 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),  
2 or

3 b. a hospital located in this state which is licensed as  
4 a hospital at that location pursuant to Section 1-701  
5 et seq. of Title 63 of the Oklahoma Statutes and is  
6 owned by a municipality, county, the state or a public  
7 trust for the diagnosis, treatment, or care of  
8 patients in order to obtain medical care, surgical  
9 care, or obstetrical care;

10 ~~17.~~ 28. "Not-for-profit mental health and substance abuse  
11 facility" means a facility, not for the sole purpose of  
12 administration, which is operated by the Department of Mental Health  
13 and Substance Abuse Services or a facility certified by the  
14 Department of Mental Health and Substance Abuse Services as a  
15 Community Mental Health Care Center, a Community-Based Structured  
16 Crisis Center or a Community Comprehensive Addiction Recovery  
17 Center;

18 ~~18.~~ 29. "Oklahoma High Cost Fund" means the fund established by  
19 the Commission in Cause Nos. PUD 950000117 and 950000119;

20 ~~19.~~ 30. "Oklahoma Lifeline Fund" or "(OLF)" means the fund  
21 established and required to be implemented by the Commission  
22 pursuant to Section 139.105 of this title;

1       ~~20.~~ 31. "Oklahoma Universal Service Fund" or "(OUSF)" means the  
2 fund established and required to be implemented by the Commission  
3 pursuant to Section 139.106 of this title;

4       ~~21.~~ 32. "Oklahoma Universal Service Fund Beneficiary" means an  
5 entity eligible to receive Special Universal Services support as  
6 provided for in subsection A of Section 6 of this act;

7       33. "Pre-discount amount" means the total cost of Special  
8 Universal Services, selected pursuant to the procedures set out in  
9 subparagraph 5 of subsection B of Section 6 of this act, before  
10 charges are reduced by federal or state funding support. The pre-  
11 discount amount shall not include fees or taxes;

12       34. "Person" means any individual, partnership, association,  
13 corporation, governmental entity, public or private organization of  
14 any character, or any other entity;

15       ~~22.~~ 35. "Primary universal service" means an access line and  
16 dial tone provided to the premises of residential or business  
17 customers which provides access to other lines for the transmission  
18 of two-way switched or dedicated communication in the local calling  
19 area without additional, usage-sensitive charges, including:

- 20           a. a primary directory listing,
- 21           b. dual-tone multifrequency signaling,
- 22           c. access to operator services,
- 23           d. access to directory assistance services,

- 1 e. access to telecommunications relay services for the  
2 deaf or hard-of-hearing,  
3 f. access to nine-one-one service where provided by a  
4 local governmental authority or multijurisdictional  
5 authority, and  
6 g. access to interexchange long distance services;

7 ~~23.~~ 36. "Public library" means a library or library system that  
8 is freely open to all persons under identical conditions and which  
9 is supported in whole or in part by public funds. Public library  
10 shall not include libraries operated as part of any university,  
11 college, school museum, the Oklahoma Historical Society or county  
12 law libraries;

13 ~~24.~~ 37. "Public school" means all free schools supported by  
14 public taxation, and shall include grades prekindergarten through  
15 twelve and technology center schools that provide vocational and  
16 technical instruction for high school students who attend the  
17 technology center school on a tuition-free basis. Public school  
18 shall not include private schools, home schools or virtual schools;

19 ~~25.~~ 38. "Regulated telecommunications service" means the  
20 offering of telecommunications for a fee directly to the public  
21 where the rates for such service are regulated by the Commission.  
22 Regulated telecommunications service does not include the provision  
23 of nontelecommunications services, including, but not limited to,  
24 the printing, distribution, or sale of advertising in telephone

1 directories, maintenance of inside wire, customer premises  
2 equipment, and billing and collection service, nor does it include  
3 the provision of wireless telephone service, enhanced service, and  
4 other unregulated services, including services not under the  
5 jurisdiction of the Commission, and services determined by the  
6 Commission to be competitive;

7 ~~26.~~ 39. "Special Universal Services" means the  
8 telecommunications services supported by the OUSF which are  
9 furnished to public schools, public libraries, ~~not for profit~~  
10 ~~hospitals and county seats~~ eligible health care entities as provided  
11 for in Section ~~139.109~~ 6 of this ~~title~~ act;

12 ~~27.~~ 40. "Tariff" means all or any part of the body of rates,  
13 tolls, charges, classifications, and terms and conditions of service  
14 relating to regulated services offered, the conditions under which  
15 offered, and the charges therefor, which have been filed with the  
16 Commission and have become effective;

17 ~~28.~~ 41. "Telecommunications" means the transmission, between or  
18 among points specified by the user, of ~~voice or data~~ information of  
19 the user's choosing, without change in the form or content of the  
20 information as sent and received;

21 ~~29.~~ 42. "Telecommunications carrier" means a person that  
22 provides telecommunications service in this state;

23 ~~30.~~ 43. "Telecommunications service" means the offering of  
24 telecommunications for a fee;

1       ~~31.~~ 44. "Telemedicine service" means the practice of health  
2 care delivery, diagnosis, consultation and treatment, including but  
3 not limited to the transfer of medical data or exchange of medical  
4 education information by means of audio, video or data  
5 communications. Telemedicine service shall not mean a consultation  
6 provided by telephone or facsimile machine;

7       45. "Universal service area" has the same meaning as the term  
8 "service area" as defined in 47 U.S.C., Section 214(e) (5); and

9       ~~32.~~ 46. "WAN" means a wide-area network that exists over a  
10 large-scale geographical area. A WAN connects different smaller  
11 networks, including local area networks and metro area networks,  
12 which ensures that computers and users in one location can  
13 communicate with computers and users in other locations;

14       47. "Wire center" means a geographic area normally served by a  
15 central office; and

16       48. "Wireless telephone service" means radio communication  
17 service carried on between mobile stations or receivers and land  
18 stations and by mobile stations communicating among themselves and  
19 which permits a user generally to receive a call that originates or  
20 terminates on the public switched network or its functional  
21 equivalent regardless of the radio frequencies used.

22       SECTION 4.       AMENDATORY       17 O.S. 2011, Section 139.106, is  
23 amended to read as follows:

1 Section 139.106. A. There is hereby created within the  
2 Corporation Commission the "Oklahoma Universal Service Fund" (OUSF).  
3 Not later than January 31, 1998, the Corporation Commission shall  
4 promulgate rules implementing the OUSF so that, consistent with the  
5 provisions of this section, funds can be made available to eligible  
6 local exchange telecommunications service providers and consistent  
7 with Section 6 funds can be made available to eligible providers.

8 B. The ~~fund~~ OUSF shall be funded and administered to promote  
9 and ensure the availability of primary universal services, at rates  
10 that are reasonable and affordable and ~~special universal services~~  
11 Special Universal Services, and to provide for reasonably comparable  
12 services at affordable rates in rural areas as in urban areas. The  
13 OUSF shall provide funding to local exchange telecommunications  
14 service providers that meet the eligibility criteria established in  
15 this section and to eligible providers that meet the eligibility  
16 criteria established in Section 6 of this act for the provision of  
17 Special Universal Services.

18 C. The OUSF shall be funded by a charge paid by all  
19 ~~telecommunications carriers~~ contributing providers as provided for  
20 in Section 7 139.107 of this ~~act~~ title, at a level sufficient to  
21 maintain universal service.

22 D. 1. The procedure for eligible local exchange  
23 telecommunications service providers and eligible providers to seek  
24

1 and obtain OUSF and Oklahoma Lifeline Fund (OLF) funding shall be as  
2 set forth in this subsection.

3 2. Within ninety (90) days after receipt of a request for funds  
4 from an eligible local exchange telecommunications service provider  
5 or an eligible provider, the Administrator ~~designated~~ as defined  
6 pursuant to Section 7 139.102 of this ~~act~~ title shall independently  
7 review and determine the accuracy of the request and advise the  
8 eligible local exchange telecommunications service provider or  
9 eligible provider requesting the funds of the determination of  
10 eligibility made by the Administrator. ~~Any affected party shall~~  
11 ~~have fifteen (15) days to request reconsideration by the Commission~~  
12 ~~of the determination made by the Administrator. If the Commission~~  
13 ~~does not issue an order within thirty (30) days from the request for~~  
14 ~~reconsideration, the request shall be deemed approved, on an interim~~  
15 ~~basis, subject to refund with interest. Any refund shall include~~  
16 ~~interest at a rate of not more than the interest rate established by~~  
17 ~~the Commission on customer deposits and shall accrue for a period~~  
18 ~~not to exceed ninety (90) days from the date the funds were received~~  
19 ~~by the requesting eligible provider~~ The determination shall detail  
20 the amount of funding recoverable from the OUSF and OLF. Failure by  
21 the Administrator to issue a determination within the ninety-day  
22 period means the request for OUSF or OLF reimbursement is deemed  
23 approved on a permanent basis, and funding shall be paid within  
24 forty-five (45) days without an order of the Commission. If a

1 request for reconsideration of the determination of the  
2 Administrator is not filed as provided for in paragraph 5 of this  
3 subsection, the determination shall be deemed final on the sixteenth  
4 day following the date of the determination. The OUSF funding as  
5 provided in the determination of the Administrator shall be paid to  
6 the eligible local exchange telecommunications service provider or  
7 eligible provider within forty-five (45) days without an order of  
8 the Commission.

9 3. For requests seeking OUSF funds pursuant to Section 6 of  
10 this act, provided that an OUSF approval funding letter has been  
11 issued as otherwise provided for in the Oklahoma Telecommunications  
12 Act of 1997, the eligible provider shall, within sixty (60) days of  
13 the start of service, submit to the Administrator a request for  
14 reimbursement from the OUSF. The Administrator shall have sixty  
15 (60) days to issue a determination to the Oklahoma Universal Service  
16 Fund Beneficiary and eligible provider detailing the amount of  
17 funding recoverable from the OUSF. Failure by the Administrator to  
18 issue a determination within the sixty-day period means the request  
19 for OUSF reimbursement is approved as submitted. The determination  
20 shall detail the amount of funding recoverable from the OUSF.  
21 Failure by the Administrator to issue a determination shall mean the  
22 request for OUSF reimbursement is deemed approved on a permanent  
23 basis, and funding shall be paid within forty-five (45) days without  
24 an order of the Commission. If a request for reconsideration of the

1 determination of the Administrator is not filed as provided for in  
2 paragraph 5 of this subsection, the determination shall be deemed  
3 final on the sixteenth day following the date of the determination.  
4 The OUSF funding as provided in the determination of the  
5 Administrator shall be paid to the eligible provider within forty-  
6 five (45) days without an order of the Commission.

7 4. A request for reimbursement as provided for in paragraph 3  
8 of this subsection shall be in the form as determined by the  
9 Administrator. The form shall be posted by the Administrator no  
10 later than one hundred twenty (120) days prior to the start of the  
11 funding year to become effective July 1 for reimbursement requests  
12 submitted for eligible services provided during the funding year.  
13 Any party may file an objection to a posted form with the Commission  
14 within fifteen (15) days of the posting. The Commission shall have  
15 thirty (30) days to issue a final order on the objection to the  
16 form. If the Commission does not issue a final order on the  
17 objection within thirty (30) days, the objection shall be deemed  
18 approved.

19 5. Any affected party, meaning the eligible local exchange  
20 telecommunications service provider, the eligible provider, any  
21 service provider that pays into the OUSF, the Oklahoma Universal  
22 Service Fund Beneficiary or the Attorney General, shall have fifteen  
23 (15) days to file a request for reconsideration by the Commission of  
24 the determination made by the Administrator. If the Commission does

1 not issue a final order within thirty (30) days from the date the  
2 request for reconsideration is filed, the request shall be deemed  
3 approved on an interim basis subject to refund with interest. The  
4 interest rate on a refund shall be at a rate of not more than the  
5 interest rate established by the Commission on customer deposits and  
6 shall accrue for a period not to exceed ninety (90) days from the  
7 date the funds were received by the requesting eligible local  
8 exchange telecommunications service provider or eligible provider.  
9 If the Commission does not issue a final order within one hundred  
10 twenty (120) days of the filing of the request for reconsideration,  
11 then the request for OUSF or OLF funding as filed shall be deemed  
12 approved on a permanent basis without order of the Commission, and  
13 the OUSF and OLF funding shall be paid without an order of the  
14 Commission within forty-five (45) days.

15 6. The term "final order" as used in this subsection shall mean  
16 an order which resolves all issues associated with the request for  
17 OUSF or OLF funding.

18 E. ~~Telecommunications carriers~~ Contributing providers may, at  
19 their option, recover from their retail customers the OUSF charges  
20 paid by the ~~telecommunications carrier~~ contributing provider. The  
21 OUSF charges shall not be subject to state or local taxes or  
22 franchise fees.

23 F. The Commission shall not, prior to implementation and the  
24 availability of funds from the OUSF, require local exchange

1 telecommunications service providers to reduce rates for intrastate  
2 access services.

3 G. Any eligible local exchange telecommunications service  
4 provider may request funding from the OUSF as necessary to maintain  
5 rates for primary universal services that are reasonable and  
6 affordable. OUSF funding shall be provided to eligible local  
7 exchange telecommunications service providers for the following:

8 1. To reimburse eligible local exchange telecommunications  
9 service providers for the reasonable investments and expenses not  
10 recovered from the federal universal service fund or any other state  
11 or federal government fund incurred in providing universal services;

12 2. Infrastructure expenditures or costs incurred in response to  
13 facility or service requirements established by a legislative,  
14 regulatory, or judicial authority or other governmental entity  
15 mandate;

16 3. For reimbursement of the Lifeline Service Program credits as  
17 set forth in Section ~~5~~ 139.105 of this ~~act~~ title;

18 4. To reimburse eligible local exchange telecommunications  
19 service providers for providing the Special Universal Services as  
20 set forth in ~~subsection C of~~ Section ~~9~~ 6 of this act;

21 5. To defray the costs of administering the OUSF, including the  
22 costs of administration, processing, and an annual independent  
23 audit, ~~if~~. The annual audit shall not be performed by the  
24 Commission staff; and

1       6. For other purposes deemed necessary by the Commission to  
2 preserve and advance universal service.

3       H. In identifying and measuring the costs of providing primary  
4 universal services, exclusively for the purpose of determining OUSF  
5 funding levels under this section, the eligible local exchange  
6 telecommunications service provider serving less than seventy-five  
7 thousand access lines shall, at its option:

8       1. Calculate such costs by including all embedded investments  
9 and expenses incurred by the eligible local exchange  
10 telecommunications service provider in the provision of primary  
11 universal service, and may identify high-cost areas within the local  
12 exchange area it serves and perform a fully distributed allocation  
13 of embedded costs and identification of associated primary universal  
14 service revenue. Such calculation may be made using fully  
15 distributed Federal Communications Commission parts 32, 36 and 64  
16 costs, if such parts are applicable. The high-cost area shall be no  
17 smaller than a single exchange, wire center, or census block group,  
18 chosen at the option of the eligible local exchange  
19 telecommunications service provider; ~~or~~

20       2. Adopt the cost studies approved by the Commission for a  
21 local exchange telecommunications service provider that serves  
22 seventy-five thousand or more access lines; or

23       3. Adopt such other costing or measurement methodology as may  
24 be established for such purpose by the Federal Communications

1 Commission pursuant to Section 254 of the federal Telecommunications  
2 Act of 1996.

3 I. In identifying and measuring the cost of providing primary  
4 universal services, and exclusively for the purpose of determining  
5 OUSF funding levels pursuant to this section, each ILEC which serves  
6 seventy-five thousand or more access lines and each CLEC shall  
7 identify high-cost areas within the local exchange and perform a  
8 cost study using a Commission-approved methodology from those  
9 identified in subsection H of this section. The high-cost area  
10 shall be no smaller than a single exchange, wire center or census  
11 block group chosen at the option of the eligible ILEC or CLEC. If  
12 the Commission fails to approve the selected methodology within one  
13 hundred twenty (120) days of the filing of the selection, the  
14 selected methodology shall be deemed approved.

15 J. The Commission may by rule expand primary universal services  
16 to be supported by the OUSF, after notice and hearing. The  
17 Administrator, upon approval of the Commission, shall determine the  
18 level of additional OUSF funding to be made available to an eligible  
19 local exchange telecommunications service provider which is required  
20 to recover the cost of any expansion of universal services.

21 K. 1. Each request for OUSF funding by an eligible ILEC  
22 serving less than seventy-five thousand access lines shall be  
23 premised upon the occurrence of one or more of the following:

24

- 1 a. in the event of a Federal Communications Commission  
2 order, rule or policy, the effect of which is to  
3 decrease the federal universal service fund revenues  
4 of an eligible local exchange telecommunications  
5 service provider, the eligible local exchange  
6 telecommunications service provider shall recover the  
7 decreases in revenues from the OUSF,
- 8 b. if, as a result of changes required by existing or  
9 future federal or state regulatory rules, orders, or  
10 policies or by federal or state law, an eligible local  
11 exchange telecommunications service provider  
12 experiences a reduction in revenues or an increase in  
13 costs, it shall recover the revenue reductions or cost  
14 increases from the OUSF, the recovered amounts being  
15 limited to the net reduction in revenues or cost  
16 increases, or
- 17 c. if, as a result of changes made as required by  
18 existing or future federal or state regulatory rules,  
19 orders, or policies or by federal or state law, an  
20 eligible local exchange telecommunications service  
21 provider experiences a reduction in costs, upon  
22 approval by the Commission, the provider shall reduce  
23 the level of OUSF funding it receives to a level  
24 sufficient to account for the reduction in costs.

1           2. The receipt of OUSF funds for any of the changes referred to  
2 in this subsection shall not be conditioned upon any rate case or  
3 earnings investigation by the Commission. The Commission shall,  
4 pursuant to subsection D of this section, approve the request for  
5 payment or adjustment of payment from the OUSF based on a comparison  
6 of the total annual revenues received from the sources affected by  
7 the changes described in paragraph 1 of this subsection by the  
8 requesting eligible local exchange telecommunications service  
9 provider during the most recent twelve (12) months preceding the  
10 request, and the reasonable calculation of total annual revenues or  
11 cost increases which will be experienced after the changes are  
12 implemented by the requesting eligible local exchange  
13 telecommunications service provider.

14           L. Upon request for OUSF funding by an ILEC serving seventy-  
15 five thousand or more access lines or a CLEC, the Commission shall  
16 after notice and hearing make a determination of the level of OUSF  
17 funds, if any, that the provider is eligible to receive for the  
18 purposes contained in subsection K of this section. If the  
19 Commission fails to make a determination within one hundred twenty  
20 (120) days of the filing of the request, the request for funding  
21 shall be deemed approved. ~~Providers who are not prohibited from~~  
22 ~~applying for OUSF funds as set forth in Section 9 of this act shall~~  
23 ~~receive funding for any special universal services provided and~~  
24 ~~contributions made to the Oklahoma E911 Emergency Service Fund and~~

1 ~~the Oklahoma Telecommunications Technology Training Fund from the~~  
2 ~~OUSF without a hearing.~~

3 M. The incumbent local exchange telecommunications service  
4 provider, its successors and assigns, which owned, maintained and  
5 provided facilities for universal service within a local exchange  
6 area on January 1, 1996, shall be the local exchange  
7 telecommunications service provider eligible for OUSF funding within  
8 the local exchange area, except as otherwise provided for in this  
9 act.

10 N. 1. Where the incumbent local exchange telecommunications  
11 service provider receives or is eligible to receive monies from the  
12 OUSF, except as otherwise provided in this section, the Commission,  
13 after notice and hearing, may designate other local exchange  
14 telecommunications service providers to be eligible for the funding,  
15 provided:

16 a. the other local exchange telecommunications service  
17 provider is certificated by the Commission to provide  
18 and offers the primary universal services supported by  
19 the OUSF to all customers in the universal service  
20 area designated by the Commission, using its own  
21 facilities, or a combination of its own facilities and  
22 the resale of the services or facilities of another.  
23 Universal service support under this subsection shall  
24 not begin until the other local exchange

1 telecommunications service provider has facilities in  
2 place,

3 b. the other local exchange telecommunications service  
4 provider may only receive funding for the portion of  
5 the facilities that it owns, maintains, and uses for  
6 regulated services,

7 c. the other local exchange telecommunications service  
8 provider shall not receive OUSF funding at a level  
9 higher than the level of funding the incumbent local  
10 exchange telecommunications service provider is  
11 eligible to receive for the same area if the incumbent  
12 local exchange telecommunications service provider is  
13 also providing service in the same area; provided, the  
14 cost of any cost studies required to be performed  
15 shall be borne by the party requesting such studies,  
16 unless the party performing the study utilizes the  
17 study for its own benefit,

18 d. the other local exchange telecommunications service  
19 provider advertises the availability and charges for  
20 services it provides through a medium of general  
21 distribution, and

22 e. it is determined by the Commission that the  
23 designation is in the public interest and the other  
24 local exchange telecommunications service provider is

1 in compliance with all Commission rules for which a  
2 waiver has not been granted.

3 2. Notwithstanding the criteria set forth in this section for  
4 designation as an eligible local exchange telecommunications service  
5 provider, a commercial mobile radio service provider may, after  
6 notice and hearing, seek reimbursement from the OUSF for the  
7 provision of services supported by the OUSF, and any  
8 telecommunications carrier may seek reimbursement from the OUSF for  
9 the provision of Lifeline Service consistent with Section ~~5~~ 139.105  
10 of this ~~act~~ title and for the provision of Special Universal  
11 Services consistent with Section ~~9~~ 6 of this act.

12 O. In exchanges or wire centers where the Commission has  
13 designated more than one local exchange telecommunications service  
14 provider as eligible for OUSF funding, the Commission shall permit  
15 one or more of the local exchange telecommunications service  
16 providers in the area to relinquish the designation as a local  
17 exchange telecommunications service provider eligible for OUSF  
18 funding in a manner consistent with Section 214(e)(4) of the federal  
19 Telecommunications Act of 1996, upon a finding that at least one  
20 eligible local exchange telecommunications service provider shall  
21 continue to assume the carrier-of-last-resort obligations throughout  
22 the area.

23 P. For any area served by an incumbent local exchange  
24 telecommunications service provider which serves less than seventy-

1 five thousand access lines within the state, only the incumbent  
2 local exchange telecommunications service provider shall be eligible  
3 for OUSF funding except:

4 1. Other eligible telecommunications carriers which provide  
5 Special Universal Services or Lifeline Service shall be eligible to  
6 request and receive OUSF funds in the same manner as the incumbent  
7 local exchange telecommunications service provider in the same area  
8 pursuant to ~~this act~~ the Oklahoma Telecommunications Act of 1997;

9 2. The incumbent local exchange telecommunications service  
10 provider may elect to waive the right to be the only eligible local  
11 exchange telecommunications service provider within the local  
12 exchange area by filing notice with the Commission; or

13 3. When the Commission, after notice and hearing, makes a  
14 determination that it is in the public interest that another local  
15 exchange telecommunications service provider should also be deemed a  
16 carrier of last resort and be eligible to receive OUSF funding in  
17 addition to the incumbent local exchange telecommunications service  
18 provider. It shall not be in the public interest to designate  
19 another local exchange telecommunications service provider as being  
20 a carrier of last resort and eligible to receive OUSF funding if  
21 such designation would cause a significant adverse economic impact  
22 on users of telecommunications services generally or if the other  
23 carrier refuses to seek and accept carrier-of-last-resort  
24 obligations throughout the universal service area as designated by

1 the Commission. The other local exchange telecommunications service  
2 provider shall not receive OUSF funding at a level higher than the  
3 level of funding the incumbent local exchange telecommunications  
4 service provider is eligible to receive for the same area if the  
5 incumbent local exchange telecommunications service provider is also  
6 providing service in the same area and the other local exchange  
7 telecommunications service provider meets the requirements of  
8 subparagraphs a, b, d and e of paragraph 1 of subsection N of this  
9 section.

10 SECTION 5. AMENDATORY 17 O.S. 2011, Section 139.107, is  
11 amended to read as follows:

12 Section 139.107. A. The Oklahoma Lifeline Fund (OLF) and the  
13 Oklahoma Universal Service Fund (OUSF) shall be funded in a  
14 competitively neutral manner not inconsistent with federal law by  
15 all ~~telecommunications carriers~~ contributing providers. The funding  
16 from each ~~carrier~~ contributing provider shall be based on the total  
17 ~~retail-billed~~ intrastate retail Oklahoma Voice over Internet  
18 Protocol (VoIP) revenues and intrastate telecommunications revenues,  
19 from both regulated and unregulated services, of the  
20 ~~telecommunications carrier~~ contributing provider, hereinafter  
21 referred to as assessed revenues, as a percentage of all  
22 ~~telecommunications carriers' total retail-billed intrastate~~  
23 ~~telecommunications~~ assessed revenues of the contributing providers,  
24 ~~from both regulated and unregulated services~~ or such other

1 assessment methodology not inconsistent with federal law. VoIP  
2 services shall be assessed only as provided for in the decision of  
3 the Federal Communications Commission, FCC 10-185, released November  
4 5, 2010, or such other assessment methodology that is not  
5 inconsistent with federal law. The Commission may after notice and  
6 hearing modify the contribution methodology for the OUSF and OLF,  
7 provided the new methodology is not inconsistent with federal law.

8 B. The Corporation Commission shall establish the ~~Oklahoma~~  
9 ~~Lifeline Fund charges~~ OLF assessment and the ~~Oklahoma Universal~~  
10 ~~Service Fund charges~~ OUSF assessment at a level sufficient to  
11 recover costs of administration and payments for OUSF and OLF  
12 requests for funding as provided for in the Oklahoma  
13 Telecommunications Act of 1997. The Commission shall provide for  
14 administration of the ~~two funds by Commission employees or~~ OLF and  
15 OUSF shall be provided by contracting for such services with a party  
16 ~~having no conflicting interest in the provision of~~  
17 ~~telecommunications services~~ the Public Utility Division of the  
18 Commission. The administrative function shall be headed by ~~an~~ the  
19 Administrator as defined in Section 139.102 of this title. The  
20 Administrator shall be an independent evaluator. The Administrator  
21 may enter into contracts to assist with the administration of the  
22 OLF and OUSF.

23 C. If the Commission determines after notice and hearing that a  
24 ~~telecommunications carrier~~ contributing provider has acted in

1 violation of this section, in addition to the other enforcement  
2 powers of the Commission, including its contempt powers and  
3 authority to revoke a telecommunications service provider's  
4 certificate of convenience and necessity, the Commission may bring  
5 an action on behalf of the ~~Oklahoma Lifeline Fund~~ OLF or the  
6 ~~Oklahoma Universal Service Fund~~ OUSF, in the ~~district~~ a court of  
7 competent jurisdiction that the Commission deems appropriate, to  
8 recover any unpaid fees and ~~charges~~ assessments the Commission has  
9 determined are due and payable, including interest, administrative  
10 and adjudicative costs, and attorney fees. Upon collection of the  
11 ~~charges~~ assessments, fees and costs, the Administrator shall pay the  
12 costs of the actions and deposit the remaining funds in the ~~Oklahoma~~  
13 ~~Lifeline Fund~~ OLF or the ~~Oklahoma Universal Service Fund~~ OUSF as  
14 appropriate.

15 D. The monies deposited in the ~~Oklahoma Lifeline Fund~~ OLF, the  
16 ~~Oklahoma Universal Service Fund~~ OUSF and the Oklahoma High Cost Fund  
17 shall at no time become monies of the state and shall not become  
18 part of the general budget of the Corporation Commission or any  
19 other state agency. Except as otherwise authorized by ~~this act~~ the  
20 Oklahoma Telecommunications Act of 1997, no monies from the ~~Oklahoma~~  
21 ~~Lifeline Fund~~ OLF, the ~~Oklahoma Universal Service Fund~~ OUSF, or the  
22 Oklahoma High Cost Fund shall be transferred for any purpose to any  
23 other state agency or any account of the Corporation Commission or  
24 be used for the purpose of contracting with any other state agency

1 or reimbursing any other state agency for any expense. Payments  
2 from the ~~Oklahoma Lifeline Fund~~ OLF, the ~~Oklahoma Universal Service~~  
3 ~~Fund~~ OUSF, and the Oklahoma High Cost Fund shall not become or be  
4 construed to be an obligation of this state. No claims for  
5 reimbursement from the ~~Oklahoma Lifeline Fund~~ OLF, the ~~Oklahoma~~  
6 ~~Universal Service Fund~~ OUSF or the Oklahoma High Cost Fund shall be  
7 paid with state monies.

8 SECTION 6. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 139.109.1 of Title 17, unless  
10 there is created a duplication in numbering, reads as follows:

11 A. The following services are hereby declared to be Special  
12 Universal Services:

13 1. Each eligible healthcare entity in this state as defined in  
14 Section 139.102 of Title 17 of the Oklahoma Statutes shall be  
15 eligible to receive Special Universal Services for telemedicine  
16 providers. Special Universal Services for telemedicine providers  
17 shall include the provision of bandwidth per standards as  
18 recommended by the Federal Communications Commission sufficient for  
19 providing telemedicine services including the telemedicine line,  
20 reasonable installation and network termination equipment owned and  
21 operated by the eligible provider that is necessary to provide the  
22 eligible telemedicine service;

23 2. Each public school as defined in Section 139.102 of Title 17  
24 of the Oklahoma Statutes shall be eligible to receive Special

1 Universal Services for schools. Special Universal Services for  
2 schools shall include the E-rate Eligible Services List ("ESL") for  
3 Category One services as determined by the FCC for the applicable  
4 funding year or, in the absence of such a list, as published by the  
5 Universal Services Administrative Company. In the event no ESL is  
6 available from the FCC or USAC for the applicable funding year,  
7 eligible services will be those on the ESL for the last funding year  
8 for which an ESL was available. Special Universal Services shall  
9 include the provision of bandwidth sufficient for providing  
10 educational services not to exceed, without good cause shown, the  
11 standards established for the relevant funding year by the State  
12 Educational Technology Directors Association (SETDA) or successor  
13 educational broadband standard including Internet access lines, WAN  
14 connections, reasonable installation, and network termination  
15 equipment owned and operated by the eligible provider as defined by  
16 the ESL that is necessary to provide the eligible service. Student  
17 counts as reported to the State Department of Education in October  
18 of the year prior to the relevant funding year shall be utilized for  
19 the purpose of determining bandwidth recommendations established by  
20 SETDA for purposes of this paragraph. In the absence of standards  
21 prescribed for the applicable funding year, the standards for the  
22 next prescribed funding year shall be used. Special Universal  
23 Services shall not include voice services that use separate lines or  
24 have allocated bandwidth. The Commission may modify the service

1 considered to be Special Universal Services pursuant to rule, after  
2 notice and hearing; and

3       3. Each public library as defined in Section 139.102 of Title  
4 17 of the Oklahoma Statutes shall be eligible to receive Special  
5 Universal Services for libraries. Special Universal Services for  
6 libraries shall include the E-rate Eligible Services List ("ESL")  
7 for Category One services as determined by the Federal  
8 Communications Commission for the applicable funding year or, in the  
9 absence of such a list, as published by the Universal Services  
10 Administrative Company. In the event no ESL is available from the  
11 FCC or USAC for the applicable funding year, eligible services will  
12 be those on the ESL for the last funding year for which an ESL was  
13 available. Special Universal Services shall include the provision  
14 of bandwidth sufficient for providing library services per standards  
15 as recommended by the Federal Communications Commission including  
16 Internet access lines, reasonable installation, and network  
17 termination equipment owned and operated by the eligible provider  
18 that is necessary to provide the eligible service. Special  
19 Universal Services shall not include voice services that use  
20 separate lines or have allocated bandwidth. The Commission may  
21 modify the services considered to be Special Universal Services  
22 pursuant to rule, after notice and hearing.

23       B. 1. Eligible services that are exempt from competitive  
24 bidding pursuant to state law or the rules of the Federal Universal

1 Service Support Mechanisms or successor program or programs shall be  
2 exempt from the Special Universal Services competitive bidding  
3 requirements set forth in this subsection, and the Oklahoma  
4 Universal Service Fund Beneficiary must provide evidence of such  
5 exemption as part of the funding request.

6       2. An OUSF Beneficiary may be eligible to receive funding from  
7 both the OUSF and other state or federal funds; however, in no  
8 instance shall there be a double recovery. The OUSF Beneficiary  
9 shall make every reasonable effort to obtain funding from another  
10 state and/or federal fund designed to support Special Universal  
11 Services. The OUSF Beneficiary shall provide the OUSF Administrator  
12 with information regarding the recipient's request for funding from  
13 government sources designed to support the provisioning of Special  
14 Universal Services, or an explanation of why such funding is not  
15 available or why the recipient of the Special Universal Services did  
16 not request such funding. Failure to provide such documentation may  
17 result in the OUSF Administrator denying in whole or in part, a  
18 request for Special Universal Services funding from the OUSF. If an  
19 OUSF Beneficiary is not eligible to receive funding from other state  
20 or federal funds per the program rules of the other state or federal  
21 funds, the OUSF Beneficiary shall be exempt from the requirement to  
22 obtain funding from another state and/or federal fund designed to  
23 support Special Universal Services set forth in this subsection.

24

1 The OUSF Beneficiary must provide evidence of such exemption as part  
2 of the funding request.

3 3. The credit amount for the provision of Special Universal  
4 Services as provided for in subsection A of this section shall be  
5 determined as provided for in this subsection.

6 4. An eligible provider shall be entitled to reimbursement from  
7 the Oklahoma Universal Service Fund (OUSF) for providing Special  
8 Universal Services as described in subsection A of this section. In  
9 no case shall the reimbursement from the OUSF be made for an  
10 Internet subscriber fee or charges incurred as a result of services  
11 accessed via the Internet.

12 5. Oklahoma Universal Service Fund Beneficiaries shall conduct  
13 a fair and open competitive bidding process to select the services  
14 and carrier eligible for support. The Competitive bidding process  
15 shall meet the following standards:

16 a. the solicitation of bids shall clearly identify the  
17 bandwidth range requested by the Oklahoma Universal  
18 Service Fund Beneficiary or consortium,

19 b. the Oklahoma Universal Service Fund Beneficiary shall  
20 not limit bidders based upon technology,

21 c. the bidding shall be open to all carriers authorized  
22 to receive OUSF funding in the telephone exchange  
23 where the Oklahoma Universal Service Fund Beneficiary  
24

1 is located or where the members of the consortium are  
2 located, and

- 3 d. the bidding shall not be structured in a manner to  
4 exclude carriers eligible to receive OUSF funding in  
5 the telephone exchange where the Oklahoma Universal  
6 Services Fund Beneficiary is located.

7 6. For Special Universal Services that are competitively bid in  
8 compliance with this act, the credit amount shall be not more than  
9 twenty-five percent (25%) greater than the lowest cost reasonable  
10 qualifying bid of the total pre-discount amount of eligible services  
11 plus installation charges, less federal funding support for the same  
12 services including installation charges issued in a funding  
13 commitment letter or similar approval document for the Federal  
14 Universal Service Support Mechanism or successor program or programs  
15 for the applicable funding year.

16 7. For purposes of this act, "lowest cost reasonable qualifying  
17 bid" means a bid that:

- 18 a. represents the lowest total cost proposal including  
19 monthly recurring and nonrecurring charges for  
20 eligible services,  
21 b. is reasonable to meet the needs of the Oklahoma  
22 Universal Service Fund Beneficiary as listed in the  
23 request for bids,  
24

- 1           c.    is submitted during the same competitive bidding
- 2                    period as the awarded bid,
- 3           d.    is for a bandwidth within the range requested for bid
- 4                    and selected by the Oklahoma Universal Service Fund
- 5                    Beneficiary,
- 6           e.    is for the same contract term as the bid that was
- 7                    selected by the Oklahoma Universal Service Fund
- 8                    Beneficiary,
- 9           f.    meets the requirements specified in the request for
- 10                  bid by the Oklahoma Universal Service Fund
- 11                  Beneficiary, and
- 12           g.    was the result of a fair and open competitive bidding
- 13                  process as defined in this act.

14           8.    If a long-term contract includes change clauses for changes  
15 in sites or services, the Oklahoma Universal Service Fund  
16 Beneficiary shall not be required to conduct a new competitive bid  
17 during the life of the original contract, which may not exceed five  
18 (5) years.

19           9.    For eligible services associated with an Oklahoma Universal  
20 Service Fund Beneficiary that does not competitively bid in  
21 compliance with this act, the credit amount shall be determined at  
22 the discretion of the Administrator.

23           C.    1.   Special Universal Services shall not be sold, resold or  
24 transferred in consideration for money or any other thing of value.

1           2. The OUSF shall not fund more than one eligible provider for  
2 the same service at the same location for the same time period,  
3 except during a transition period from one eligible provider to  
4 another. Funding during a transition period shall not exceed thirty  
5 (30) days.

6           D. The Administrator shall have the authority to investigate  
7 each request for OUSF funding for Special Universal Services in  
8 order to ensure that the OUSF pays only for the Special Universal  
9 Services authorized in this section. The Administrator shall deny  
10 requests for OUSF funding in excess of the credit amounts authorized  
11 in subsection B of this section unless good cause is shown.

12           E. The Corporation Commission shall have authority to  
13 investigate and modify or reject in whole or part a Special  
14 Universal Service request under subsection A of this section if the  
15 request does not meet the specified criteria, if the Corporation  
16 Commission's investigation determines that the entity has not  
17 provided sufficient documentation for the requested services, or if  
18 the Corporation Commission determines that granting the request is  
19 not in the public interest due to fraud.

20           F. 1. The Special Universal Services preapproval and  
21 reimbursement procedures as set forth in this subsection shall be  
22 effective and shall apply for each applicable funding year beginning  
23 July 1, 2017.

24

1           2. The Oklahoma Universal Service Fund Beneficiary

2 administrative preapproval submission process shall be as follows:

- 3           a. the Administrator shall establish an administrative  
4 approval process to be initiated by the Oklahoma  
5 Universal Service Fund Beneficiary in a timely fashion  
6 for the purpose of determining eligible services and  
7 credit amounts for the upcoming funding year. The  
8 administrative preapproval submission process shall  
9 include all necessary forms and instructions,  
10 hereinafter referred to as the "OUSF administrative  
11 preapproval request". The Administrator shall  
12 determine the form for the OUSF administrative  
13 preapproval requests. The form shall be posted on the  
14 Commission website no later than June 30 of each year  
15 to become effective for any OUSF administrative  
16 preapproval requests submitted after August 31 of that  
17 year. Any party may file an objection to the form  
18 with the Commission within fifteen (15) days of  
19 posting. The Commission shall issue a final order on  
20 the objection to the form within thirty (30) days,  
21           b. the Administrator shall issue an approval funding  
22 letter to the Oklahoma Universal Service Fund  
23 Beneficiary and the eligible provider within ninety  
24 (90) days of receipt of a properly completed OUSF

1 administrative preapproval request. Failure by the  
2 Administrator to issue an approval funding letter  
3 within the ninety-day period means the OUSF  
4 administrative preapproval request submitted by the  
5 Oklahoma Universal Service Fund Beneficiary is  
6 approved as submitted and the subsequent request for  
7 reimbursement submitted by the eligible provider which  
8 is consistent with the information submitted in the  
9 OUSF administrative preapproval request shall be  
10 approved as submitted,

11 c. the approval funding letter shall inform the Oklahoma  
12 Universal Service Fund Beneficiary of the preapproved  
13 services and associated credit amount for the  
14 applicable funding year. The amount of OUSF funding  
15 preapproved under this subsection may be subject to  
16 adjustments based on the amount of support received  
17 from other sources, if any, and adjustments to pricing  
18 that may occur between the time of preapproval and  
19 installation of service,

20 d. any OUSF administrative preapproval request shall be  
21 submitted to the Administrator in the format outlined  
22 in instructions posted on the Commission website. The  
23 OUSF administrative preapproval request shall include  
24 but not be limited to the following:

1 (1) a Special Universal Services request form as  
2 posted on the Commission website no later than  
3 June 30 of each year for requests made after  
4 August 31 of that year,

5 (2) a Federal Universal Service Support Mechanism or  
6 successor program or programs form used to  
7 request federal funding support for the  
8 applicable funding year,

9 (3) a federal funding commitment letter for the  
10 applicable funding year, if issued, and

11 (4) competitive bidding documentation for the  
12 relevant funding year,

13 e. issuance of an OUSF approval funding letter by the  
14 Administrator shall occur without a Commission order,

15 f. OUSF administrative preapproval requests not submitted  
16 by June 30 prior to the applicable funding year shall  
17 be processed by the Administrator on a first-in-first-  
18 out basis, and

19 g. after a preapproval funding letter has been issued, an  
20 OUSF Beneficiary may submit a new administrative  
21 preapproval request to provide corrections or  
22 additional information per program rules issued by the  
23 Commission.  
24

1       3. The eligible provider reimbursement process shall be as  
2 follows:

3           a. requests for reimbursement shall be submitted per  
4 procedures as set forth in subsection D of Section  
5 139.106 of Title 17 of the Oklahoma Statutes,

6           b. the Administrator shall post the monthly payout report  
7 to the Commission website,

8           c. funding for eligible services, including federal  
9 funding, shall not exceed actual eligible expenses,

10          d. any change in cost of eligible services during the  
11 funding year shall be reported by the eligible  
12 provider to the OUSF and:

13           (1) all decreases in cost shall be deemed approved  
14 until the next eligible bidding period and all  
15 cost savings shall be properly allocated to the  
16 OUSF and the Oklahoma Universal Service Fund  
17 Beneficiary, and

18           (2) increases in cost shall be reviewed for approval  
19 as provided for in Commission rules, and

20          e. issuance of a determination by the Administrator shall  
21 not require a Commission order.

22       SECTION 7.       REPEALER       17 O.S. 2011, Section 139.109, as  
23 last amended by Section 2, Chapter 182, O.S.L. 2014 (17 O.S. Supp.  
24 2015, Section 139.109), is hereby repealed.

1 SECTION 8. It being immediately necessary for the preservation  
2 of the public peace, health and safety, an emergency is hereby  
3 declared to exist, by reason whereof this act shall take effect and  
4 be in full force from and after its passage and approval."

5

6 Passed the Senate the 21st day of April, 2016.

7

8

\_\_\_\_\_  
Presiding Officer of the Senate

9

10 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
11 2016.

12

13

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

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24

1 ENGROSSED HOUSE  
2 BILL NO. 2616

By: Thomsen, Roberts (Dustin),  
Condit, Cannaday and Hoskin  
of the House

3  
4 and

5 Fields of the Senate  
6

7 An Act relating to telecommunications; amending 17  
8 O.S. 2011, Section 137.3, which relates to the  
9 assessment of a universal service fee; changing  
10 entities required to pay a universal service fee;  
11 amending 17 O.S. 2011, Sections 139.102, as last  
12 amended by Section 1, Chapter 245, O.S.L. 2014,  
13 139.106 and 139.107 (17 O.S. Supp. 2015, Section  
14 139.102), which relate to the Oklahoma  
15 Telecommunications Act of 1997; modifying  
16 definitions; adding definitions; changing entities  
17 required to pay a certain Oklahoma Universal Service  
18 Fund (OUSF) charge; deleting certain reconsideration  
19 or refund process; requiring certain determination of  
20 funding by the OUSF Administrator; providing for  
21 approval in certain circumstances; providing for  
22 payment of OUSF funding; establishing procedures for  
23 certain requests for OUSF funding; providing for  
24 payment within certain timeframe; establishing  
process for reconsideration of funding; providing for  
certain interest payment; defining certain term;  
updating statutory citations; modifying source of  
certain funding; modifying funding requirements for  
the Oklahoma Lifeline Fund and the Oklahoma Universal  
Service Fund; changing entities required to provide  
funding; modifying basis for funding; establishing  
assessment method for Voice over Internet Protocol  
services; establishing assessment method for  
wholesale providers; authorizing the Corporation  
Commission to modify contribution methodology;  
specifying Division of the Commission required to  
provide administration; requiring Administrator to be  
independent evaluator; authorizing Administrator to  
enter into certain contracts; providing services that  
are Special Universal Services; establishing criteria  
for determining certain credit amount; making certain

1 providers eligible for certain reimbursement;  
2 establishing the credit amount for certain eligible  
3 services; defining certain term; limiting  
4 installation charges; establishing competitive  
5 bidding requirements; requiring a fair and open  
6 process; listing services which shall be  
7 competitively bid; requiring competitive bidding for  
8 certain eligible services under certain  
9 circumstances; exempting certain eligible services;  
10 precluding new competitive bidding under certain  
11 circumstances; authorizing the Administrator to  
12 investigate Special Universal Service funding  
13 requests; establishing criteria for the OUSF  
14 beneficiary approval process; providing for  
15 administrative approval process; providing for  
16 issuance of an approval funding letter by the OUSF  
17 Administrator; providing for certain adjustments;  
18 establishing criteria for the eligible provider  
19 reimbursement process; directing the OUSF  
20 Administrator to maintain certain information on a  
21 website; limiting funding for eligible services;  
22 providing for changes in costs; precluding  
23 requirement for a Commission order in certain  
24 circumstances; repealing 17 O.S. 2011, Section  
139.109, as last amended by Section 2, Chapter 182,  
O.S.L. 2014 (17 O.S. Supp. 2015, Section 139.109),  
which relates to certain funds; providing for  
codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 17 O.S. 2011, Section 137.3, is  
amended to read as follows:

Section 137.3 The Corporation Commission may, after notice and  
hearing, assess a universal service fee upon all contributing  
providers ~~of telecommunications services,~~ as defined by the rules of  
~~the Corporation Commission, and upon cellular and other radio~~

1 ~~carriers,~~ in Section 139.102 of this title to support state and  
2 federal universal service objectives.

3 SECTION 2. AMENDATORY 17 O.S. 2011, Section 139.102, as  
4 last amended by Section 1, Chapter 245, O.S.L. 2014 (17 O.S. Supp.  
5 2015, Section 139.102), is amended to read as follows:

6 Section 139.102 As used in the Oklahoma Telecommunications Act  
7 of 1997:

8 1. "Access line" means the ~~facility~~ facilities provided and  
9 maintained by a telecommunications service provider which ~~permits~~  
10 permit access to or from the public switched network or its  
11 functional equivalent regardless of the technology or medium used;

12 2. "Administrative process" means an administrative application  
13 process which allows eligible providers to request funding and  
14 Oklahoma Universal Service Fund Beneficiaries to submit forms for  
15 support for eligible services from the Universal Service Fund by  
16 submitting forms directly with the Administrator. The  
17 administrative process shall not require an order from the  
18 Commission to determine eligibility for, allocate or disburse funds  
19 unless a request for reconsideration is filed;

20 3. "Administrator" means the Director of the Public Utility  
21 Division of the Corporation Commission;

22 4. "Commission" means the Corporation Commission of this state;

23 ~~3.~~ 5. "Competitive local exchange carrier" or "CLEC" means,  
24 with respect to an area or exchange, a telecommunications service

1 provider that is certificated by the Commission to provide local  
2 exchange services in that area or exchange within the state after  
3 July 1, 1995;

4 ~~4.~~ 6. "Competitively neutral" means not advantaging or favoring  
5 one person over another;

6 ~~5.~~ 7. "Consortium" means, as used in Section 5 of this act, two  
7 or more Oklahoma Universal Service Fund Beneficiaries that choose to  
8 request support under the Federal Universal Service Support  
9 Mechanism or successor program or programs as a single entity;

10 8. "Contributing provider" means an entity that provides  
11 intrastate telecommunications to the public or to such classes of  
12 users as to be effectively available to the public for a fee. A  
13 contributing provider shall be considered a telecommunications  
14 carrier providing intrastate telecommunications and shall contribute  
15 to the Oklahoma Universal Service Fund and Oklahoma Lifeline Fund.  
16 Certain other providers of intrastate telecommunications, providers  
17 of intrastate telecommunications for a fee on a non-common-carrier  
18 basis and interconnected Voice over Internet Protocol (VoIP)  
19 providers shall contribute to the Oklahoma Universal Service Fund  
20 and Oklahoma Lifeline Fund. Entities exempt from contributing to  
21 the Federal Universal Service Support Mechanisms are also exempt  
22 from contributing to the Oklahoma Universal Service Fund and  
23 Oklahoma Lifeline Fund consistent with 47 C.F.R., Section 54.706(d).  
24 If the Federal Communications Commission (FCC) expands the

1 contributors to the Federal Universal Service Support Mechanism the  
2 term "contributing providers" shall be modified to conform to the  
3 definition of contributors as defined by the FCC if adopted by the  
4 Commission, after notice and hearing;

5 9. "Eligible healthcare entity" means a not-for-profit  
6 hospital, county health department, city-county health department,  
7 not-for-profit mental health and substance abuse facility or  
8 Federally Qualified Health Center in Oklahoma. Eligible healthcare  
9 entity shall also include telemedicine services provided by the  
10 Oklahoma Department of Corrections at facilities identified in  
11 Section 509 of Title 57 of the Oklahoma Statutes;

12 10. "End User Common Line Charge" means the flat-rate monthly  
13 interstate access charge required by the Federal Communications  
14 Commission that contributes to the cost of local service;

15 ~~6.~~ 11. "Enhanced service" means a service that is delivered  
16 over communications transmission facilities and that uses computer  
17 processing applications to:

- 18 a. change the content, format, code, or protocol of
- 19 transmitted information,
- 20 b. provide the customer new or restructured information,
- 21 or
- 22 c. involve end-user interaction with information stored
- 23 in a computer;

24

1       ~~7.~~ 12. "Exchange" means a geographic area established by an  
2 incumbent local exchange telecommunications provider as filed with  
3 or approved by the Commission for the administration of local  
4 telecommunications service in a specified area which usually  
5 embraces a city, town, or village and its environs and which may  
6 consist of one or more central offices together with associated  
7 plant used in furnishing telecommunications service in that area;

8       ~~8.~~ 13. "Facilities" means all the plant and equipment of a  
9 telecommunications service provider, including all tangible and  
10 intangible real and personal property without limitation, and any  
11 and all means and instrumentalities in any manner owned, operated,  
12 leased, licensed, used, controlled, furnished, or supplied for, by,  
13 or in connection with the ~~regulated~~ business of any  
14 telecommunications service provider;

15       ~~9.~~ 14. "Federally Qualified Health Center (FQHC)" means an  
16 entity which:

- 17       a. is receiving a grant under Section 330 of the Public  
18       Health Service (PHS) Act, 42 U.S.C., Section 254b, or  
19       is receiving funding from a grant under a contract  
20       with the recipient of such a grant and meets the  
21       requirements to receive a grant under Section 330 of  
22       the PHS Act,
- 23       b. based on the recommendation of the Health Resources  
24       and Services Administration within the Public Health

1 Service, is determined by the Secretary of the  
2 Department of Health and Human Services to meet the  
3 requirements for receiving a grant as described in  
4 subparagraph a of this paragraph,

5 c. was treated by the Secretary of the Department of  
6 Health and Human Services, for purposes of part B of  
7 Section 330 of the PHS Act, as a comprehensive  
8 federally funded health center as of January 1, 1990,  
9 or

10 d. is an outpatient health program or facility operated  
11 by a tribe or tribal organization under the Indian  
12 Self-Determination Act, 25 U.S.C., Section 450f et  
13 seq., or by an urban Indian organization receiving  
14 funds under Title V of the Indian Health Care  
15 Improvement Act, 25 U.S.C., Section 1651 et seq.;

16 15. "Federal Universal Service Support Mechanism" is the  
17 support program established by the Telecommunications Act of 1996,  
18 47 U.S.C., Section 254(h). The program includes support for  
19 schools, libraries and healthcare providers;

20 16. "Funding year" means for purposes of administering the  
21 Oklahoma Universal Service Fund, the period of July 1 through June  
22 30;

23 17. "High speed Internet access service" or "broadband service"  
24 means, as used in Section 139.110 of this title, those services and

1 underlying facilities that provide upstream, from customer to  
2 provider, or downstream, from provider to customer, transmission to  
3 or from the Internet in excess of one hundred fifty (150) kilobits  
4 per second, regardless of the technology or medium used including,  
5 but not limited to, wireless, copper wire, fiber optic cable, or  
6 coaxial cable, to provide such service;

7 ~~10.~~ 18. "Hospital" means a healthcare entity that has been  
8 granted a license as a hospital by the Oklahoma Department of Health  
9 for that particular location;

10 ~~11.~~ 19. "Incumbent local exchange telecommunications service  
11 provider" or "ILEC" means, with respect to an area or exchanges, any  
12 telecommunications service provider furnishing local exchange  
13 service in such area or exchanges within this state on July 1, 1995,  
14 pursuant to a certificate of convenience and necessity or  
15 grandfathered authority;

16 ~~12.~~ 20. "Installation charge" means any charge for a  
17 nonrecurring service charged by an eligible provider necessary to  
18 initiate Special Universal Services;

19 21. "Interexchange telecommunications carrier" or "IXC" means  
20 any person, firm, partnership, corporation or other entity, except  
21 an incumbent local exchange telecommunications service provider,  
22 engaged in furnishing regulated interexchange telecommunications  
23 services under the jurisdiction of the Commission;

24

1       ~~13.~~ 22. "Internet" means the international research-oriented  
2 network comprised of business, government, academic and other  
3 networks;

4       ~~14.~~ 23. "Local exchange telecommunications service" means a  
5 regulated switched or dedicated telecommunications service which  
6 originates and terminates within an exchange or an exchange service  
7 territory. Local exchange telecommunications service may be  
8 terminated by a telecommunications service provider other than the  
9 telecommunications service provider on whose network the call  
10 originated. The local exchange service territory defined in the  
11 originating provider's tariff shall determine whether the call is  
12 local exchange service;

13       ~~15.~~ 24. "Local exchange telecommunications service provider"  
14 means a company holding a certificate of convenience and necessity  
15 from the Commission to provide local exchange telecommunications  
16 service;

17       ~~16.~~ 25. "Not-for-profit hospital" means:

- 18           a. a hospital located in this state which has been  
19                licensed as a hospital at that location pursuant to  
20                Section 1-701 et seq. of Title 63 of the Oklahoma  
21                Statutes for the diagnosis, treatment, or care of  
22                patients in order to obtain medical care, surgical  
23                care or obstetrical care and which is established as  
24                exempt from taxation pursuant to the provisions of the

1 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),  
2 or

3 b. a hospital located in this state which is licensed as  
4 a hospital at that location pursuant to Section 1-701  
5 et seq. of Title 63 of the Oklahoma Statutes and is  
6 owned by a municipality, county, the state or a public  
7 trust for the diagnosis, treatment, or care of  
8 patients in order to obtain medical care, surgical  
9 care, or obstetrical care;

10 ~~17.~~ 26. "Not-for-profit mental health and substance abuse  
11 facility" means a facility operated by the Department of Mental  
12 Health and Substance Abuse Services or a facility certified by the  
13 Department of Mental Health and Substance Abuse Services as a  
14 Community Mental Health Care Center, a Community-Based Structured  
15 Crisis Center or a Community Comprehensive Addiction Recovery  
16 Center;

17 ~~18.~~ 27. "Oklahoma High Cost Fund" means the fund established by  
18 the Commission in Cause Nos. PUD 950000117 and 950000119;

19 ~~19.~~ 28. "Oklahoma Lifeline Fund" or "(OLF)" means the fund  
20 established and required to be implemented by the Commission  
21 pursuant to Section 139.105 of this title;

22 ~~20.~~ 29. "Oklahoma Universal Service Fund" or "(OUSF)" means the  
23 fund established and required to be implemented by the Commission  
24 pursuant to Section 139.106 of this title;

1       ~~21.~~ 30. "Oklahoma Universal Service Fund Beneficiary" means an  
2 entity eligible to receive Special Universal Services support as  
3 provided for in subsection A of Section 5 of this act;

4       31. "Prediscount amount" means the total cost of eligible  
5 services before charges are reduced by federal or state funding  
6 support. The prediscount amount shall not include fees or taxes;

7       32. "Person" means any individual, partnership, association,  
8 corporation, governmental entity, public or private organization of  
9 any character, or any other entity;

10       ~~22.~~ 33. "Primary universal service" means an access line and  
11 dial tone provided to the premises of residential or business  
12 customers which provides access to other lines for the transmission  
13 of two-way switched or dedicated communication in the local calling  
14 area without additional, usage-sensitive charges, including:

- 15           a. a primary directory listing,
- 16           b. dual-tone multifrequency signaling,
- 17           c. access to operator services,
- 18           d. access to directory assistance services,
- 19           e. access to telecommunications relay services for the  
20           deaf or hard-of-hearing,
- 21           f. access to nine-one-one service where provided by a  
22           local governmental authority or multijurisdictional  
23           authority, and
- 24           g. access to interexchange long distance services;

1       ~~23.~~ 34. "Public library" means a library or library system that  
2 is freely open to all persons under identical conditions and which  
3 is supported in whole or in part by public funds. Public library  
4 shall not include libraries operated as part of any university,  
5 college, school museum, the Oklahoma Historical Society or county  
6 law libraries;

7       ~~24.~~ 35. "Public school" means all free schools supported by  
8 public taxation, and shall include grades prekindergarten through  
9 twelve and technology center schools that provide vocational and  
10 technical instruction for high school students who attend the  
11 technology center school on a tuition-free basis;

12       ~~25.~~ 36. "Regulated telecommunications service" means the  
13 offering of telecommunications for a fee directly to the public  
14 where the rates for such service are regulated by the Commission.  
15 Regulated telecommunications service does not include the provision  
16 of nontelecommunications services, including, but not limited to,  
17 the printing, distribution, or sale of advertising in telephone  
18 directories, maintenance of inside wire, customer premises  
19 equipment, and billing and collection service, nor does it include  
20 the provision of wireless telephone service, enhanced service, and  
21 other unregulated services, including services not under the  
22 jurisdiction of the Commission, and services determined by the  
23 Commission to be competitive;

24

1       ~~26.~~ 37. "Special Universal Services" means the  
2 telecommunications services supported by the OUSF which are  
3 furnished to public schools, public libraries, ~~not for profit~~  
4 ~~hospitals and county seats~~ eligible health care entities as provided  
5 for in Section ~~139.109~~ 5 of this ~~title~~ act;

6       ~~27.~~ 38. "Tariff" means all or any part of the body of rates,  
7 tolls, charges, classifications, and terms and conditions of service  
8 relating to regulated services offered, the conditions under which  
9 offered, and the charges therefor, which have been filed with the  
10 Commission and have become effective;

11       ~~28.~~ 39. "Telecommunications" means the transmission, between or  
12 among points specified by the user, of ~~voice or data~~ information of  
13 the user's choosing, without change in the form or content of the  
14 information as sent and received;

15       ~~29.~~ 40. "Telecommunications carrier" means a person that  
16 provides telecommunications service in this state;

17       ~~30.~~ 41. "Telecommunications service" means the offering of  
18 telecommunications for a fee;

19       ~~31.~~ 42. "Telemedicine service" means the practice of health  
20 care delivery, diagnosis, consultation and treatment including but  
21 not limited to the transfer of medical data or exchange of medical  
22 education information by means of audio, video or data  
23 communications. Telemedicine service shall not mean a consultation  
24 provided by telephone or facsimile machine;

1        43. "Universal service area" has the same meaning as the term  
2 "service area" as defined in 47 U.S.C., Section 214(e)(5); ~~and~~

3        ~~32.~~ 44. "WAN" means a wide-area network that exists over a  
4 large-scale geographical area. A WAN connects different smaller  
5 networks, including local area networks and metro area networks,  
6 which ensures that computers and users in one location can  
7 communicate with computers and users in other locations;

8        45. "Wire center" means a geographic area normally served by a  
9 central office; and

10        46. "Wireless telephone service" means radio communication  
11 service carried on between mobile stations or receivers and land  
12 stations and by mobile stations communicating among themselves and  
13 which permits a user generally to receive a call that originates or  
14 terminates on the public switched network or its functional  
15 equivalent regardless of the radio frequencies used.

16        SECTION 3.        AMENDATORY        17 O.S. 2011, Section 139.106, is  
17 amended to read as follows:

18        Section 139.106 A. There is hereby created within the  
19 Corporation Commission the "Oklahoma Universal Service Fund" (OUSF).  
20 Not later than January 31, 1998, the Corporation Commission shall  
21 promulgate rules implementing the OUSF so that, consistent with the  
22 provisions of this section, funds can be made available to eligible  
23 local exchange telecommunications service providers.

1 B. The fund shall be funded and administered to promote and  
2 ensure the availability of primary universal services, at rates that  
3 are reasonable and affordable and ~~special universal services~~ Special  
4 Universal Services, and to provide for reasonably comparable  
5 services at affordable rates in rural areas as in urban areas. The  
6 OUSF shall provide funding to local exchange telecommunications  
7 service providers that meet the eligibility criteria established in  
8 this section.

9 C. The OUSF shall be funded by a charge paid by all  
10 ~~telecommunications carriers~~ contributing providers as provided for  
11 in Section 7 139.107 of this ~~act~~ title, at a level sufficient to  
12 maintain universal service.

13 D. 1. The procedure for eligible providers to seek and obtain  
14 OUSF and Oklahoma Lifeline Fund (OLF) funding shall be as set forth  
15 in this subsection.

16 2. Within ninety (90) days after receipt of a request for funds  
17 from an eligible provider, the Administrator ~~designated~~ as defined  
18 pursuant to Section 7 139.102 of this ~~act~~ title shall independently  
19 review and determine the accuracy of the request and advise the  
20 provider requesting the funds of the determination of eligibility  
21 made by the Administrator. ~~Any affected party shall have fifteen~~  
22 ~~(15) days to request reconsideration by the Commission of the~~  
23 ~~determination made by the Administrator. If the Commission does not~~  
24 ~~issue an order within thirty (30) days from the request for~~

1 ~~reconsideration, the request shall be deemed approved, on an interim~~  
2 ~~basis, subject to refund with interest. Any refund shall include~~  
3 ~~interest at a rate of not more than the interest rate established by~~  
4 ~~the Commission on customer deposits and shall accrue for a period~~  
5 ~~not to exceed ninety (90) days from the date the funds were received~~  
6 ~~by the requesting eligible provider. The determination shall detail~~  
7 ~~the amount of funding recoverable from the OUSF and OLF. Failure by~~  
8 ~~the Administrator to issue a determination means the request for~~  
9 ~~OUSF or OLF reimbursement is deemed approved on a permanent basis~~  
10 ~~and funding shall be paid within thirty (30) days. If a request for~~  
11 ~~reconsideration of the determination of the Administrator is not~~  
12 ~~filed as provided for in paragraph 5 of this subsection, the~~  
13 ~~determination shall be deemed final on the sixteenth day following~~  
14 ~~the date of the determination. The OUSF funding as provided in the~~  
15 ~~determination of the Administrator shall be paid to the eligible~~  
16 ~~provider on the next scheduled payout date without an order of the~~  
17 ~~Commission.~~

18 3. For requests seeking OUSF funds pursuant to Section 5 of  
19 this act, provided that an OUSF approval funding letter has been  
20 issued as otherwise provided for in the Oklahoma Telecommunications  
21 Act of 1997, the eligible provider shall, within sixty (60) days of  
22 the start of service, submit to the Administrator a request for  
23 reimbursement from the OUSF. The Administrator shall have sixty  
24 (60) days to issue a determination to the Oklahoma Universal Service

1 Fund Beneficiary and eligible provider detailing the amount of  
2 funding recoverable from the OUSF. Failure by the Administrator to  
3 issue a determination within the sixty-day period means the request  
4 for OUSF reimbursement is approved as submitted. The determination  
5 shall detail the amount of funding recoverable from the OUSF.  
6 Failure by the Administrator to issue a determination shall mean the  
7 request for OUSF reimbursement is deemed approved on a permanent  
8 basis and funding shall be paid within thirty (30) days. If a  
9 request for reconsideration of the determination of the  
10 Administrator is not filed as provided for in paragraph 5 of this  
11 subsection, the determination shall be deemed final on the sixteenth  
12 day following the date of the determination. The OUSF funding as  
13 provided in the determination of the Administrator shall be paid to  
14 the eligible provider on the next scheduled payout date without an  
15 order of the Commission.

16 4. A request for reimbursement as provided for in paragraph 3  
17 of this subsection shall be in the form as determined by the  
18 Administrator. The form shall be posted by the Administrator no  
19 later than one hundred twenty (120) days prior to the start of the  
20 funding year to become effective July 1 for reimbursement requests  
21 submitted for eligible services provided during the funding year.  
22 Any party may file an objection to a posted form with the Commission  
23 within fifteen (15) days of the posting. The Commission shall have  
24 thirty (30) days to issue a final order on the objection to the

1 form. If the Commission does not issue a final order on the  
2 objection within thirty (30) days, the objection shall be deemed  
3 approved.

4 5. Any affected party, meaning the eligible provider, the  
5 Oklahoma Universal Service Fund Beneficiary or the Attorney General,  
6 shall have fifteen (15) days to file a request for reconsideration  
7 by the Commission of the determination made by the Administrator.  
8 If the Commission does not issue a final order within thirty (30)  
9 days from the date the request for reconsideration is filed, the  
10 request shall be deemed approved on an interim basis subject to  
11 refund with interest. The interest rate on a refund shall be at a  
12 rate of not more than the interest rate established by the  
13 Commission on customer deposits and shall accrue for a period not to  
14 exceed ninety (90) days from the date the funds were received by the  
15 requesting eligible provider. If the Commission does not issue a  
16 final order within ninety (90) days of the filing of the request for  
17 reconsideration, then the request for OUSF or OLF funding as filed  
18 shall be deemed approved on a permanent basis without order of the  
19 Commission and the OUSF and OLF funding shall be paid within thirty  
20 (30) days.

21 6. The term "final order" as used in this subsection shall mean  
22 an order which resolves all issues associated with the request for  
23 OUSF and OLF funding.

1 E. Telecommunications carriers may, at their option, recover  
2 from their retail customers the OUSF charges paid by the  
3 telecommunications carrier. The OUSF charges shall not be subject  
4 to state or local taxes or franchise fees.

5 F. The Commission shall not, prior to implementation and the  
6 availability of funds from the OUSF, require local exchange  
7 telecommunications service providers to reduce rates for intrastate  
8 access services.

9 G. Any eligible local exchange telecommunications service  
10 provider may request funding from the OUSF as necessary to maintain  
11 rates for primary universal services that are reasonable and  
12 affordable. OUSF funding shall be provided to eligible local  
13 exchange telecommunications service providers for the following:

14 1. To reimburse eligible local exchange telecommunications  
15 service providers for the reasonable investments and expenses not  
16 recovered from the federal universal service fund or any other state  
17 or federal government fund incurred in providing universal services;

18 2. Infrastructure expenditures or costs incurred in response to  
19 facility or service requirements established by a legislative,  
20 regulatory, or judicial authority or other governmental entity  
21 mandate;

22 3. For reimbursement of the Lifeline Service Program credits as  
23 set forth in Section ~~5~~ 139.105 of this ~~act~~ title;

24

1 4. To reimburse eligible local exchange telecommunications  
2 service providers for providing the Special Universal Services as  
3 set forth in ~~subsection C~~ of Section ~~9~~ 5 of this act;

4 5. To defray the costs of administering the OUSF, including the  
5 costs of an annual independent audit, if not performed by the  
6 Commission staff; and

7 6. For other purposes deemed necessary by the Commission to  
8 preserve and advance universal service.

9 H. In identifying and measuring the costs of providing primary  
10 universal services, exclusively for the purpose of determining OUSF  
11 funding levels under this section, the eligible local exchange  
12 telecommunications service provider serving less than seventy-five  
13 thousand access lines shall, at its option:

14 1. Calculate such costs by including all embedded investments  
15 and expenses incurred by the eligible local exchange  
16 telecommunications service provider in the provision of primary  
17 universal service, and may identify high-cost areas within the local  
18 exchange area it serves and perform a fully distributed allocation  
19 of embedded costs and identification of associated primary universal  
20 service revenue. Such calculation may be made using fully  
21 distributed Federal Communications Commission parts 32, 36 and 64  
22 costs, if such parts are applicable. The high-cost area shall be no  
23 smaller than a single exchange, wire center, or census block group,  
24

1 chosen at the option of the eligible local exchange  
2 telecommunications service provider; or

3 2. Adopt the cost studies approved by the Commission for a  
4 local exchange telecommunications service provider that serves  
5 seventy-five thousand or more access lines; or

6 3. Adopt such other costing or measurement methodology as may  
7 be established for such purpose by the Federal Communications  
8 Commission pursuant to Section 254 of the federal Telecommunications  
9 Act of 1996.

10 I. In identifying and measuring the cost of providing primary  
11 universal services, and exclusively for the purpose of determining  
12 OUSF funding levels pursuant to this section, each ILEC which serves  
13 seventy-five thousand or more access lines and each CLEC shall  
14 identify high-cost areas within the local exchange and perform a  
15 cost study using a Commission-approved methodology from those  
16 identified in subsection H of this section. The high-cost area  
17 shall be no smaller than a single exchange, wire center or census  
18 block group chosen at the option of the eligible ILEC or CLEC. If  
19 the Commission fails to approve the selected methodology within one  
20 hundred twenty (120) days of the filing of the selection, the  
21 selected methodology shall be deemed approved.

22 J. The Commission may by rule expand primary universal services  
23 to be supported by the OUSF, after notice and hearing. The  
24 Administrator, upon approval of the Commission, shall determine the

1 level of additional OUSF funding to be made available to an eligible  
2 local exchange telecommunications service provider which is required  
3 to recover the cost of any expansion of universal services.

4 K. 1. Each request for OUSF funding by an eligible ILEC  
5 serving less than seventy-five thousand access lines shall be  
6 premised upon the occurrence of one or more of the following:

7 a. in the event of a Federal Communications Commission  
8 order, rule or policy, the effect of which is to  
9 decrease the federal universal service fund revenues  
10 of an eligible local exchange telecommunications  
11 service provider, the eligible local exchange  
12 telecommunications service provider shall recover the  
13 decreases in revenues from the OUSF,

14 b. if, as a result of changes required by existing or  
15 future federal or state regulatory rules, orders, or  
16 policies or by federal or state law, an eligible local  
17 exchange telecommunications service provider  
18 experiences a reduction in revenues or an increase in  
19 costs, it shall recover the revenue reductions or cost  
20 increases from the OUSF, the recovered amounts being  
21 limited to the net reduction in revenues or cost  
22 increases, or

23 c. if, as a result of changes made as required by  
24 existing or future federal or state regulatory rules,

1 orders, or policies or by federal or state law, an  
2 eligible local exchange telecommunications service  
3 provider experiences a reduction in costs, upon  
4 approval by the Commission, the provider shall reduce  
5 the level of OUSF funding it receives to a level  
6 sufficient to account for the reduction in costs.

7 2. The receipt of OUSF funds for any of the changes referred to  
8 in this subsection shall not be conditioned upon any rate case or  
9 earnings investigation by the Commission. The Commission shall,  
10 pursuant to subsection D of this section, approve the request for  
11 payment or adjustment of payment from the OUSF based on a comparison  
12 of the total annual revenues received from the sources affected by  
13 the changes described in paragraph 1 of this subsection by the  
14 requesting eligible local exchange telecommunications service  
15 provider during the most recent twelve (12) months preceding the  
16 request, and the reasonable calculation of total annual revenues or  
17 cost increases which will be experienced after the changes are  
18 implemented by the requesting eligible local exchange  
19 telecommunications service provider.

20 L. Upon request for OUSF funding by an ILEC serving seventy-  
21 five thousand or more access lines or a CLEC, the Commission shall  
22 after notice and hearing make a determination of the level of OUSF  
23 funds, if any, that the provider is eligible to receive for the  
24 purposes contained in subsection K of this section. If the

1 Commission fails to make a determination within one hundred twenty  
2 (120) days of the filing of the request, the request for funding  
3 shall be deemed approved. Providers who are not prohibited from  
4 applying for OUSF funds as set forth in Section ~~9~~ 5 of this act  
5 shall receive funding for any ~~special universal services~~ Special  
6 Universal Services provided ~~and contributions made to the Oklahoma~~  
7 ~~E911 Emergency Service Fund and the Oklahoma Telecommunications~~  
8 ~~Technology Training Fund from the OUSF~~ without a hearing.

9 M. The incumbent local exchange telecommunications service  
10 provider, its successors and assigns, which owned, maintained and  
11 provided facilities for universal service within a local exchange  
12 area on January 1, 1996, shall be the local exchange  
13 telecommunications service provider eligible for OUSF funding within  
14 the local exchange area, except as otherwise provided for in this  
15 act.

16 N. 1. Where the incumbent local exchange telecommunications  
17 service provider receives or is eligible to receive monies from the  
18 OUSF, except as otherwise provided in this section, the Commission,  
19 after notice and hearing, may designate other local exchange  
20 telecommunications service providers to be eligible for the funding,  
21 provided:

22 a. the other local exchange telecommunications service  
23 provider is certificated by the Commission to provide  
24 and offers the primary universal services supported by

1 the OUSF to all customers in the universal service  
2 area designated by the Commission, using its own  
3 facilities, or a combination of its own facilities and  
4 the resale of the services or facilities of another.  
5 Universal service support under this subsection shall  
6 not begin until the other local exchange  
7 telecommunications service provider has facilities in  
8 place,

9 b. the other local exchange telecommunications service  
10 provider may only receive funding for the portion of  
11 the facilities that it owns, maintains, and uses for  
12 regulated services,

13 c. the other local exchange telecommunications service  
14 provider shall not receive OUSF funding at a level  
15 higher than the level of funding the incumbent local  
16 exchange telecommunications service provider is  
17 eligible to receive for the same area if the incumbent  
18 local exchange telecommunications service provider is  
19 also providing service in the same area; provided, the  
20 cost of any cost studies required to be performed  
21 shall be borne by the party requesting such studies,  
22 unless the party performing the study utilizes the  
23 study for its own benefit,

24

1           d.    the other local exchange telecommunications service  
2           provider advertises the availability and charges for  
3           services it provides through a medium of general  
4           distribution, and

5           e.    it is determined by the Commission that the  
6           designation is in the public interest and the other  
7           local exchange telecommunications service provider is  
8           in compliance with all Commission rules for which a  
9           waiver has not been granted.

10          2.    Notwithstanding the criteria set forth in this section for  
11        designation as an eligible local exchange telecommunications service  
12        provider, a commercial mobile radio service provider may, after  
13        notice and hearing, seek reimbursement from the OUSF for the  
14        provision of services supported by the OUSF, and any  
15        telecommunications carrier may seek reimbursement from the OUSF for  
16        the provision of Lifeline Service consistent with Section ~~5~~ 139.105  
17        of this ~~act~~ title and for the provision of Special Universal  
18        Services consistent with Section ~~9~~ 5 of this act.

19          O.    In exchanges or wire centers where the Commission has  
20        designated more than one local exchange telecommunications service  
21        provider as eligible for OUSF funding, the Commission shall permit  
22        one or more of the local exchange telecommunications service  
23        providers in the area to relinquish the designation as a local  
24        exchange telecommunications service provider eligible for OUSF

1 funding in a manner consistent with Section 214(e)(4) of the federal  
2 Telecommunications Act of 1996, upon a finding that at least one  
3 eligible local exchange telecommunications service provider shall  
4 continue to assume the carrier-of-last-resort obligations throughout  
5 the area.

6 P. For any area served by an incumbent local exchange  
7 telecommunications service provider which serves less than seventy-  
8 five thousand access lines within the state, only the incumbent  
9 local exchange telecommunications service provider shall be eligible  
10 for OUSF funding except:

11 1. Other eligible telecommunications carriers which provide  
12 Special Universal Services or Lifeline Service shall be eligible to  
13 request and receive OUSF funds in the same manner as the incumbent  
14 local exchange telecommunications service provider in the same area  
15 pursuant to ~~this act~~ the Oklahoma Telecommunications Act of 1997;

16 2. The incumbent local exchange telecommunications service  
17 provider may elect to waive the right to be the only eligible local  
18 exchange telecommunications service provider within the local  
19 exchange area by filing notice with the Commission; or

20 3. When the Commission, after notice and hearing, makes a  
21 determination that it is in the public interest that another local  
22 exchange telecommunications service provider should also be deemed a  
23 carrier of last resort and be eligible to receive OUSF funding in  
24 addition to the incumbent local exchange telecommunications service

1 provider. It shall not be in the public interest to designate  
2 another local exchange telecommunications service provider as being  
3 a carrier of last resort and eligible to receive OUSF funding if  
4 such designation would cause a significant adverse economic impact  
5 on users of telecommunications services generally or if the other  
6 carrier refuses to seek and accept carrier-of-last-resort  
7 obligations throughout the universal service area as designated by  
8 the Commission. The other local exchange telecommunications service  
9 provider shall not receive OUSF funding at a level higher than the  
10 level of funding the incumbent local exchange telecommunications  
11 service provider is eligible to receive for the same area if the  
12 incumbent local exchange telecommunications service provider is also  
13 providing service in the same area and the other local exchange  
14 telecommunications service provider meets the requirements of  
15 subparagraphs a, b, d and e of paragraph 1 of subsection N of this  
16 section.

17 SECTION 4. AMENDATORY 17 O.S. 2011, Section 139.107, is  
18 amended to read as follows:

19 Section 139.107 A. The Oklahoma Lifeline Fund (OLF) and the  
20 Oklahoma Universal Service Fund (OUSF) shall be funded in a  
21 competitively neutral manner not inconsistent with federal law by  
22 all ~~telecommunications carriers~~ contributing providers. The funding  
23 from each ~~carrier~~ contributing provider shall be based on the total  
24 ~~retail-billed~~ retail Oklahoma Voice over Internet Protocol (VoIP)

1 and intrastate telecommunications revenues, from both regulated and  
2 unregulated services, of the telecommunications carrier contributing  
3 provider, hereinafter referred to as assessed revenues, as a  
4 percentage of all telecommunications carriers' total retail-billed  
5 intrastate telecommunications assessed revenues of the contributing  
6 providers, from both regulated and unregulated services or such  
7 other assessment methodology as may be allowed under federal law.  
8 VoIP services shall be assessed only as provided for in the decision  
9 of the Federal Communications Commission, FCC 10-185, released  
10 November 5, 2010, or such other assessment methodology that is not  
11 inconsistent with federal law. Wholesale providers of services  
12 shall be assessed only as provided for in the decision of the  
13 Federal Communications Commission, FCC 12-134, released November 5,  
14 2012, or such other assessment methodology that is not inconsistent  
15 with federal law. The Commission may after notice and hearing  
16 modify the contribution methodology for the OUSF and OLF, provided  
17 the new methodology is not inconsistent with federal law.

18 B. The Corporation Commission shall establish the ~~Oklahoma~~  
19 ~~Lifeline Fund~~ OLF charges assessment and the ~~Oklahoma Universal~~  
20 ~~Service Fund~~ OUSF charges assessment at a level sufficient to  
21 recover costs of administration and payments for OUSF and OLF  
22 requests for funding as provided for in the Oklahoma  
23 Telecommunications Act of 1997. The ~~Commission shall provide for~~  
24 administration of the ~~two funds by Commission employees or~~ OLF and

1 OUSF shall be provided by contracting for such services with a party  
2 having no conflicting interest in the provision of  
3 telecommunications services the Public Utility Division of the  
4 Commission. The administrative function shall be headed by ~~an~~ the  
5 Administrator as defined in Section 139.102 of this title. The  
6 Administrator shall be an independent evaluator. The Administrator  
7 may enter into contracts to assist with the administration of the  
8 OLF and OUSF.

9 C. If the Commission determines after notice and hearing that a  
10 ~~telecommunications carrier~~ contributing provider has acted in  
11 violation of this section, in addition to the other enforcement  
12 powers of the Commission, including its contempt powers and  
13 authority to revoke a telecommunications service provider's  
14 certificate of convenience and necessity, the Commission may bring  
15 an action on behalf of the ~~Oklahoma Lifeline Fund~~ OLF or the  
16 ~~Oklahoma Universal Service Fund~~ OUSF, in the district a court of  
17 competent jurisdiction that the Commission deems appropriate, to  
18 recover any unpaid fees and ~~charges~~ assessments the Commission has  
19 determined are due and payable, including interest, administrative  
20 and adjudicative costs, and attorney fees. Upon collection of the  
21 ~~charges~~ assessments, fees and costs, the Administrator shall pay the  
22 costs of the actions and deposit the remaining funds in the ~~Oklahoma~~  
23 ~~Lifeline Fund~~ OLF or the ~~Oklahoma Universal Service Fund~~ OUSF as  
24 appropriate.

1 D. The monies deposited in the ~~Oklahoma Lifeline Fund~~ OLF, the  
2 ~~Oklahoma Universal Service Fund~~ OUSF and the Oklahoma High Cost Fund  
3 shall at no time become monies of the state and shall not become  
4 part of the general budget of the Corporation Commission or any  
5 other state agency. Except as otherwise authorized by ~~this act~~ the  
6 Oklahoma Telecommunications Act of 1997, no monies from the ~~Oklahoma~~  
7 ~~Lifeline Fund~~ OLF, the ~~Oklahoma Universal Service Fund~~ OUSF, or the  
8 Oklahoma High Cost Fund shall be transferred for any purpose to any  
9 other state agency or any account of the Corporation Commission or  
10 be used for the purpose of contracting with any other state agency  
11 or reimbursing any other state agency for any expense. Payments  
12 from the ~~Oklahoma Lifeline Fund~~ OLF, the ~~Oklahoma Universal Service~~  
13 ~~Fund~~ OUSF, and the Oklahoma High Cost Fund shall not become or be  
14 construed to be an obligation of this state. No claims for  
15 reimbursement from the ~~Oklahoma Lifeline Fund~~ OLF, the ~~Oklahoma~~  
16 ~~Universal Service Fund~~ OUSF or the Oklahoma High Cost Fund shall be  
17 paid with state monies.

18 SECTION 5. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 139.109.1 of Title 17, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. The following services are hereby declared to be Special  
22 Universal Services:

23 1. Each eligible healthcare entity in this state as defined in  
24 Section 139.102 of this title shall be eligible to receive Special

1 Universal Services for telemedicine providers. Special Universal  
2 Services for telemedicine providers shall include the provision of  
3 bandwidth per standards as recommended by the Federal Communications  
4 Commission sufficient for providing telemedicine services including  
5 the telemedicine line, reasonable installation and network  
6 termination equipment owned and operated by the eligible provider  
7 that is necessary to provide the eligible service;

8       2. Each public school as defined in Section 139.102 of this  
9 title shall be eligible to receive Special Universal Services for  
10 schools. Special Universal Services for schools shall include the  
11 provision of bandwidth sufficient for providing educational services  
12 not to exceed, without good cause shown, the standards established  
13 for the relevant funding year by the State Educational Technology  
14 Directors Association (SETDA) or successor educational broadband  
15 standard including Internet access lines, WAN connections,  
16 reasonable installation, and network termination equipment owned and  
17 operated by the eligible provider that is necessary to provide the  
18 eligible service. Student counts as reported to the State  
19 Department of Education in October of the year prior to the relevant  
20 funding year shall be utilized for the purpose of determining  
21 bandwidth recommendations established by SETDA for purposes of this  
22 paragraph. In the absence of standards prescribed for the  
23 applicable funding year, the standards for the next prescribed  
24 funding year shall be used; and

1           3. Each public library as defined in Section 139.102 of this  
2 title shall be eligible to receive Special Universal Services for  
3 libraries. Special Universal Services for libraries shall include  
4 the provision of bandwidth sufficient for providing library services  
5 per standards as recommended by the Federal Communications  
6 Commission including Internet access lines, reasonable installation,  
7 and network termination equipment owned and operated by the eligible  
8 provider that is necessary to provide the eligible service.

9           B. 1. The credit amount for the provision of Special Universal  
10 Services as provided for in subsection A of this section shall be  
11 determined as provided for in this subsection.

12           2. An eligible provider shall be entitled to reimbursement from  
13 the Oklahoma Universal Service Fund (OUSF) for providing Special  
14 Universal Services as described in subsection A of this section. In  
15 no case shall the reimbursement from the OUSF be made for an  
16 Internet subscriber fee or charges incurred as a result of services  
17 accessed via the Internet.

18           3. For eligible services that are exempt from competitive  
19 bidding as set forth in subsection C of this section or were  
20 competitively bid by the Oklahoma Universal Service Fund Beneficiary  
21 or a consortium in compliance with one of the Federal Universal  
22 Service Support Mechanisms or successor program or programs, the  
23 credit amount shall be the total prediscount amount of eligible  
24 services plus installation charges, less federal funding support for

1 the same services including installation charges issued in a funding  
2 commitment letter or similar approval document for the Federal  
3 Universal Service Support Mechanism or successor program or programs  
4 for the applicable funding year.

5 4. For eligible services associated with an Oklahoma Universal  
6 Service Fund Beneficiary that is not eligible to participate  
7 individually in one of the Federal Universal Service Support  
8 Mechanisms or successor program or programs and that are not exempt  
9 from competitive bidding as set forth in subsection C of this  
10 section or were not competitively bid by the Oklahoma Universal  
11 Service Fund Beneficiary or a consortium in compliance with one of  
12 the Federal Universal Service Support Mechanisms or successor  
13 program or programs, the credit amount shall be:

- 14 a. the amount currently approved by a Commission final  
15 order,
- 16 b. if the eligible services represent a higher bandwidth  
17 amount than was previously approved by a Commission  
18 final order, the amount approved by a Commission final  
19 order plus eighty-five percent (85%) of the  
20 incremental cost per the lowest reasonable cost  
21 qualifying bid for the additional bandwidth requested,  
22 or
- 23 c. if there is not a previously approved Commission final  
24 order associated with the Oklahoma Universal Service

1 Fund Beneficiary, eighty-five percent (85%) of the  
2 cost of the lowest reasonable cost qualifying bid for  
3 the total cost of eligible services including  
4 installation.

5 5. For purposes of paragraph 4 of this subsection, "lowest  
6 reasonable cost qualifying bid" means a bid that:

- 7 a. represents the lowest total cost proposal including  
8 monthly recurring and nonrecurring charges for  
9 eligible services,
- 10 b. is reasonable to meet the needs of the Oklahoma  
11 Universal Service Fund Beneficiary as listed in the  
12 request for bids,
- 13 c. is submitted during the same competitive bidding  
14 period as the awarded bid,
- 15 d. is for the bandwidth selected by the Oklahoma  
16 Universal Service Fund Beneficiary,
- 17 e. is for the same contract term as the bid that was  
18 selected by the Oklahoma Universal Service Fund  
19 Beneficiary,
- 20 f. meets the requirements specified in the request for  
21 proposal by the Oklahoma Universal Service Fund  
22 Beneficiary,
- 23 g. was the result of a fair and open competitive bidding  
24 process that was structured in a competitive manner

1 and was open to all OUSF eligible entities serving in  
2 the territory of the Oklahoma Universal Service Fund  
3 Beneficiary, and

4 h. results in an approved credit amount that is not more  
5 than twenty-five percent (25%) of the lowest cost  
6 qualifying bid without good cause shown.

7 6. If an Oklahoma Universal Service Fund Beneficiary is  
8 eligible to participate in the Federal Universal Service Support  
9 Mechanism or successor program or programs but fails to receive  
10 federal funding for the applicable funding year, then the credit  
11 amount for the eligible services including installation charges  
12 shall be determined at the discretion of the Administrator for the  
13 applicable funding year.

14 C. 1. The competitive bidding requirement for the provision of  
15 Special Universal Services as provided for in subsection A of this  
16 section shall be determined as provided for in this subsection.

17 2. Oklahoma Universal Service Fund Beneficiaries shall conduct  
18 a fair and open competitive bidding process to select the services  
19 eligible for support under this section.

20 3. The competitive bidding requirement shall be met for:

21 a. any eligible service selected by an Oklahoma Universal  
22 Service Fund Beneficiary that is competitively bid by  
23 the Oklahoma Universal Service Fund Beneficiary in  
24 compliance with one of the Federal Universal Service

1 Support Mechanisms or successor program or programs,  
2 and

3 b. any eligible service selected by an Oklahoma Universal  
4 Service Fund Beneficiary that is competitively bid by  
5 a consortium in compliance with one of the Federal  
6 Universal Service Support Mechanisms or successor  
7 program or programs regardless of whether or not the  
8 individual Oklahoma Universal Service Fund Beneficiary  
9 is eligible for federal support.

10 4. If the eligible services were not competitively bid in  
11 compliance with one of the Federal Universal Service Support  
12 Mechanisms or successor program or programs, the Oklahoma Universal  
13 Service Fund Beneficiary shall conduct a fair and open competitive  
14 bidding process pursuant to the state and local or tribal  
15 procurement rules applicable to the Oklahoma Universal Service Fund  
16 Beneficiary.

17 5. Eligible services that are exempt from competitive bidding  
18 pursuant to state law or the rules of the Federal Universal Service  
19 Support Mechanisms or successor program or programs shall be exempt  
20 from the Special Universal Services competitive bidding requirements  
21 set forth in this subsection.

22 6. If a long-term contract includes change clauses for changes  
23 in sites or services, the Oklahoma Universal Service Fund  
24

1 Beneficiary shall not be required to conduct a new competitive bid  
2 during the life of the contract.

3 D. 1. Special Universal Services shall not be sold, resold or  
4 transferred in consideration for money or any other thing of value.

5 2. The OUSF shall not fund more than one eligible provider for  
6 the same service at the same location for the same time period,  
7 except during a transition period from one eligible provider to  
8 another. Funding during a transition period shall not exceed thirty  
9 (30) days.

10 E. The Administrator shall have the authority to investigate  
11 each request for OUSF funding for Special Universal Services in  
12 order to ensure that the OUSF pays only for the Special Universal  
13 Services authorized in this section. The Administrator shall deny  
14 requests for OUSF funding in excess of the credit amounts authorized  
15 in subsection B of this section unless good cause is shown.

16 F. 1. The Special Universal Services approval and  
17 reimbursement procedures as set forth in this subsection shall be  
18 effective and shall apply beginning January 1, 2017, and for each  
19 applicable funding year beginning July 1, 2017.

20 2. The Oklahoma Universal Service Fund Beneficiary approval  
21 process shall be as follows:

22 a. the Administrator shall establish an annual  
23 administrative approval process initiated by the  
24 Oklahoma Universal Service Fund Beneficiary for the

1 purpose of determining eligible services and credit  
2 amounts for the upcoming funding year. The  
3 administrative approval process shall include all  
4 necessary forms and instructions, hereinafter referred  
5 to as the OUSF approval request. The Administrator  
6 shall determine the form for the OUSF approval  
7 requests. The form shall be posted on the Commission  
8 website no later than October 1 of each year to become  
9 effective for OUSF approval requests submitted after  
10 December 31 of that year. Any party may file an  
11 objection to the form with the Commission within  
12 fifteen (15) days of posting. The Commission shall  
13 issue a final order on the objection to the form  
14 within thirty (30) days,

15 b. the OUSF approval request may be submitted by the  
16 Oklahoma Universal Service Fund Beneficiary during the  
17 period January 1 through June 30 prior to the funding  
18 year,

19 c. the Administrator shall issue an approval funding  
20 letter to the Oklahoma Universal Service Fund  
21 Beneficiary and the eligible provider within ninety  
22 (90) days of a properly completed submission of the  
23 OUSF approval request. Failure by the Administrator  
24 to issue an approval funding letter within the ninety-

1 day period means the OUSF approval request submitted  
2 by the Oklahoma Universal Service Fund Beneficiary is  
3 approved as submitted and the subsequent request for  
4 reimbursement submitted by the eligible provider which  
5 is consistent with the information submitted in the  
6 OUSF approval request shall be approved as submitted,

7 d. the approval funding letter shall inform the Oklahoma  
8 Universal Service Fund Beneficiary of the preapproved  
9 services and associated credit amount for the  
10 applicable funding year. The amount of OUSF funding  
11 preapproved under this subsection shall be subject to  
12 adjustments based on the amount of support received  
13 from other sources, if any, and adjustments to pricing  
14 that may occur between the time of preapproval and  
15 installation of service,

16 e. the annual OUSF approval request shall be submitted to  
17 the Administrator in the format outlined in  
18 instructions posted on the Commission website. The  
19 annual OUSF approval request shall include but not be  
20 limited to the following:

21 (1) a Special Universal Services request form as  
22 provided for in rules promulgated by the  
23 Commission,

24

1 (2) a Federal Universal Service Support Mechanism or  
2 successor program or programs form used to  
3 request federal funding support for the  
4 applicable funding year,

5 (3) a federal funding commitment letter for the  
6 applicable funding year, if issued, and

7 (4) only in instances where eligible services were  
8 not competitively bid by the Oklahoma Universal  
9 Service Fund Beneficiary or a consortium in  
10 compliance with one of the Federal Universal  
11 Service Support Mechanisms or successor program  
12 or programs, competitive bidding documentation  
13 for the relevant funding year,

14 f. issuance of an OUSF approval funding letter by the  
15 Administrator shall not require a Commission order,  
16 and

17 g. OUSF approval requests not filed by June 30 prior to  
18 the applicable funding year shall be processed by the  
19 Administrator on a first-in-first-out basis.

20 3. The eligible provider reimbursement process shall be as  
21 follows:

22 a. requests for reimbursement shall be submitted per  
23 procedures as set forth in subsection D of Section  
24 139.106 of this title,

1           b.    the Administrator shall post on the Commission website  
2                    a running tally, updated monthly, of the amount of  
3                    funds approved and the amount of funds disbursed to  
4                    each Oklahoma Universal Service Fund Beneficiary and  
5                    eligible provider for each funding year,

6           c.    funding for eligible services, including federal  
7                    funding, shall not exceed actual eligible expenses,

8           d.    any change in cost of eligible services during the  
9                    funding year shall be reported by the eligible  
10                   provider to the OUSF and:

11                   (1) all decreases in cost shall be deemed approved  
12                            until the next eligible bidding period and all  
13                            cost savings shall be properly allocated to the  
14                            OUSF and the Oklahoma Universal Service Fund  
15                            Beneficiary, and

16                   (2) increases in cost shall be reviewed for approval  
17                            as provided for in Commission rules, and

18           e.    issuance of a determination by the Administrator shall  
19                    not require a Commission order.

20           SECTION 6.        REPEALER        17 O.S. 2011, Section 139.109, as  
21           last amended by Section 2, Chapter 182, O.S.L. 2014 (17 O.S. Supp.  
22           2015, Section 139.109), is hereby repealed.

23           SECTION 7.   It being immediately necessary for the preservation  
24           of the public peace, health and safety, an emergency is hereby

