

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB672 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Todd Thomsen _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 PROPOSED
4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 672

By: Griffin of the Senate

and

Christian of the House

7
8
9 PROPOSED COMMITTEE SUBSTITUTE

10 [telecommunications - assessment of a universal
11 service fee - Oklahoma Telecommunications Act of 1997
12 - Oklahoma Universal Service Fund (OUSF) charge -
13 Administrator to investigate Special Universal
14 Service funding requests - codification -
15 emergency]

16
17
18
19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

1 ~~the Corporation Commission, and upon cellular and other radio~~
2 ~~carriers, in Section 139.102 of this title to support state and~~
3 federal universal service objectives.

4 SECTION 2. AMENDATORY 17 O.S. 2011, Section 139.102, as
5 last amended by Section 1, Chapter 245, O.S.L. 2014 (17 O.S. Supp.
6 2015, Section 139.102), is amended to read as follows:

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

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

13 2. "Administrative process" means an administrative application
14 process which allows eligible providers to request funding for
15 support for eligible services and an administrative submission
16 process that allows Oklahoma Universal Service Fund Beneficiaries to
17 request preapproval of their bidding process by submitting forms
18 directly to the Administrator. Neither administrative process set
19 forth in this paragraph shall require an order from the Commission
20 to determine eligibility for, allocate or disburse funds unless a
21 request for reconsideration is filed;

22 3. "Administrator" means the Director of the Public Utility
23 Division of the Corporation Commission;

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

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

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

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

12 8. "Contributing provider" means an entity that provides
13 intrastate telecommunications to the public or to such classes of
14 users as to be effectively available to the public for a fee. A
15 contributing provider shall contribute to the Oklahoma Universal
16 Service Fund and Oklahoma Lifeline Fund. Certain other providers of
17 intrastate telecommunications, providers of intrastate
18 telecommunications for a fee on a non-common-carrier basis and
19 interconnected Voice over Internet Protocol (VoIP) providers shall
20 contribute to the Oklahoma Universal Service Fund and Oklahoma
21 Lifeline Fund and shall be assessed using the assessment methodology
22 as provided for in the decision of the Federal Communications
23 Commission, FCC 10-185, which was released November 5, 2010, or such
24 other assessment methodology that is not inconsistent with federal

1 law. Entities exempt from contributing to the Federal Universal
2 Service Support Mechanisms are also exempt from contributing to the
3 Oklahoma Universal Service Fund and Oklahoma Lifeline Fund
4 consistent with 47 C.F.R., Section 54.706(d). If the FCC expands
5 the contributors to the Federal Universal Service Support Mechanism
6 the term "contributing providers" shall be modified to conform to
7 the definition of contributors as defined by the FCC if adopted by
8 the Commission, after notice and hearing;

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

16 10. "Eligible provider" means, for purposes of Special
17 Universal Services, providers of telecommunications services which
18 hold a certificate of convenience and necessity and the
19 telecommunications network known as OneNet;

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

23
24

1 ~~6.~~ 12. "Enhanced service" means a service that is delivered
2 over communications transmission facilities and that uses computer
3 processing applications to:

- 4 a. change the content, format, code, or protocol of
- 5 transmitted information,
- 6 b. provide the customer new or restructured information,
- 7 or
- 8 c. involve end-user interaction with information stored
- 9 in a computer;

10 ~~7.~~ 13. "Exchange" means a geographic area established by an
11 incumbent local exchange telecommunications provider as filed with
12 or approved by the Commission for the administration of local
13 telecommunications service in a specified area which usually
14 embraces a city, town, or village and its environs and which may
15 consist of one or more central offices together with associated
16 plant used in furnishing telecommunications service in that area;

17 ~~8.~~ 14. "Facilities" means all the plant and equipment of a
18 telecommunications service provider, including all tangible and
19 intangible real and personal property without limitation, and any
20 and all means and instrumentalities in any manner owned, operated,
21 leased, licensed, used, controlled, furnished, or supplied for, by,
22 or in connection with the ~~regulated~~ business of any
23 telecommunications service provider;

1 ~~9.~~ 15. "Federally Qualified Health Center (FQHC)" means an
2 entity which:

3 a. is receiving a grant under Section 330 of the Public
4 Health Service (PHS) Act, 42 U.S.C., Section 254b, or
5 is receiving funding from a grant under a contract
6 with the recipient of such a grant and meets the
7 requirements to receive a grant under Section 330 of
8 the PHS Act,

9 b. based on the recommendation of the Health Resources
10 and Services Administration within the Public Health
11 Service, is determined by the Secretary of the
12 Department of Health and Human Services to meet the
13 requirements for receiving a grant as described in
14 subparagraph a of this paragraph,

15 c. was treated by the Secretary of the Department of
16 Health and Human Services, for purposes of part B of
17 Section 330 of the PHS Act, as a comprehensive
18 federally funded health center as of January 1, 1990,
19 or

20 d. is an outpatient health program or facility operated
21 by a tribe or tribal organization under the Indian
22 Self-Determination Act, 25 U.S.C., Section 450f et
23 seq., or by an urban Indian organization receiving
24

1 funds under Title V of the Indian Health Care
2 Improvement Act, 25 U.S.C., Section 1651 et seq.;

3 16. "Federal Universal Service Support Mechanism" is the
4 support program established by the Telecommunications Act of 1996,
5 47 U.S.C., Section 254(h). The program includes support for
6 schools, libraries and healthcare providers;

7 17. "Funding year" means, for purposes of administering the
8 Oklahoma Universal Service Fund, the period of July 1 through June
9 30;

10 18. "High speed Internet access service" or "broadband service"
11 means, as used in Section 139.110 of this title, those services and
12 underlying facilities that provide upstream, from customer to
13 provider, or downstream, from provider to customer, transmission to
14 or from the Internet in excess of one hundred fifty (150) kilobits
15 per second, regardless of the technology or medium used including,
16 but not limited to, wireless, copper wire, fiber optic cable, or
17 coaxial cable, to provide such service;

18 ~~10.~~ 19. "Hospital" means a healthcare entity that has been
19 granted a license as a hospital by the Oklahoma Department of Health
20 for that particular location;

21 ~~11.~~ 20. "Incumbent local exchange telecommunications service
22 provider" or "ILEC" means, with respect to an area or exchanges, any
23 telecommunications service provider furnishing local exchange
24 service in such area or exchanges within this state on July 1, 1995,

1 pursuant to a certificate of convenience and necessity or
2 grandfathered authority;

3 ~~12.~~ 21. "Installation charge" means any charge for a
4 nonrecurring service charged by an eligible provider necessary to
5 initiate the contracted level of Special Universal Services that
6 would be charged for like services not paid for by the Oklahoma
7 Universal Service Fund and in no instance shall include
8 infrastructure beyond that needed for the service that is
9 contracted;

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

15 ~~13.~~ 23. "Internet" means the international research-oriented
16 network comprised of business, government, academic and other
17 networks;

18 ~~14.~~ 24. "Local exchange telecommunications service" means a
19 regulated switched or dedicated telecommunications service which
20 originates and terminates within an exchange or an exchange service
21 territory. Local exchange telecommunications service may be
22 terminated by a telecommunications service provider other than the
23 telecommunications service provider on whose network the call
24 originated. The local exchange service territory defined in the

1 originating provider's tariff shall determine whether the call is
2 local exchange service;

3 ~~15.~~ 25. "Local exchange telecommunications service provider"
4 means a company holding a certificate of convenience and necessity
5 from the Commission to provide local exchange telecommunications
6 service;

7 ~~16.~~ 26. "Not-for-profit hospital" means:

- 8 a. a hospital located in this state which has been
9 licensed as a hospital at that location pursuant to
10 Section 1-701 et seq. of Title 63 of the Oklahoma
11 Statutes for the diagnosis, treatment, or care of
12 patients in order to obtain medical care, surgical
13 care or obstetrical care and which is established as
14 exempt from taxation pursuant to the provisions of the
15 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
16 or
17 b. a hospital located in this state which is licensed as
18 a hospital at that location pursuant to Section 1-701
19 et seq. of Title 63 of the Oklahoma Statutes and is
20 owned by a municipality, county, the state or a public
21 trust for the diagnosis, treatment, or care of
22 patients in order to obtain medical care, surgical
23 care, or obstetrical care;

24

1 ~~17.~~ 27. "Not-for-profit mental health and substance abuse
2 facility" means a facility ~~where patient care occurs and which is~~
3 operated by the Department of Mental Health and Substance Abuse
4 Services or a facility certified by the Department of Mental Health
5 and Substance Abuse Services as a Community Mental Health Care
6 Center, a Community-Based Structured Crisis Center or a Community
7 Comprehensive Addiction Recovery Center;

8 ~~18.~~ 28. "Oklahoma High Cost Fund" means the fund established by
9 the Commission in Cause Nos. PUD 950000117 and 950000119;

10 ~~19.~~ 29. "Oklahoma Lifeline Fund" or "(OLF)" means the fund
11 established and required to be implemented by the Commission
12 pursuant to Section 139.105 of this title;

13 ~~20.~~ 30. "Oklahoma Universal Service Fund" or "(OUSF)" means the
14 fund established and required to be implemented by the Commission
15 pursuant to Section 139.106 of this title;

16 ~~21.~~ 31. "Oklahoma Universal Service Fund Beneficiary" means an
17 entity eligible to receive Special Universal Services support as
18 provided for in subsection A of Section 5 of this act;

19 32. "Person" means any individual, partnership, association,
20 corporation, governmental entity, public or private organization of
21 any character, or any other entity;

22 ~~22.~~ 33. "Prediscount amount" means the total amount of eligible
23 services before charges are reduced by federal or state funding
24 support. The prediscount amount shall not include fees or taxes;

1 34. "Prepaid wireless telecommunications service" means the
2 same as the term "prepaid wireless calling service" as defined in
3 paragraph 12 of subsection A of Section 1354.30 of Title 68 of the
4 Oklahoma Statutes;

5 35. "Primary universal service" means an access line and dial
6 tone provided to the premises of residential or business customers
7 which provides access to other lines for the transmission of two-way
8 switched or dedicated communication in the local calling area
9 without additional, usage-sensitive charges, including:

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

20 ~~23.~~ 36. "Public library" means a library or library system that
21 is freely open to all persons under identical conditions and which
22 is supported in whole or in part by public funds. Public library
23 shall not include libraries operated as part of any university,
24

1 college, school museum, the Oklahoma Historical Society or county
2 law libraries;

3 ~~24.~~ 37. "Public school" means all free schools supported by
4 public taxation, and shall include grades prekindergarten through
5 twelve and technology center schools that provide vocational and
6 technical instruction for high school students who attend the
7 technology center school on a tuition-free basis. Public schools
8 shall not mean private schools, home schools or virtual schools;

9 ~~25.~~ 38. "Regulated telecommunications service" means the
10 offering of telecommunications for a fee directly to the public
11 where the rates for such service are regulated by the Commission.
12 Regulated telecommunications service does not include the provision
13 of nontelecommunications services, including, but not limited to,
14 the printing, distribution, or sale of advertising in telephone
15 directories, maintenance of inside wire, customer premises
16 equipment, and billing and collection service, nor does it include
17 the provision of wireless telephone service, enhanced service, and
18 other unregulated services, including services not under the
19 jurisdiction of the Commission, and services determined by the
20 Commission to be competitive;

21 ~~26.~~ 39. "Special Universal Services" means the
22 telecommunications services supported by the OUSF which are
23 furnished to public schools, public libraries, ~~not for profit~~

24

1 ~~hospitals and county seats~~ eligible healthcare entities as provided
2 for in Section ~~139.109~~ 5 of this ~~title~~ act;

3 ~~27.~~ 40. "Tariff" means all or any part of the body of rates,
4 tolls, charges, classifications, and terms and conditions of service
5 relating to regulated services offered, the conditions under which
6 offered, and the charges therefor, which have been filed with the
7 Commission and have become effective;

8 ~~28.~~ 41. "Telecommunications" means the transmission, between or
9 among points specified by the user, of ~~voice or data~~ information of
10 the user's choosing, without change in the form or content of the
11 information as sent and received;

12 ~~29.~~ 42. "Telecommunications carrier" means a person that
13 provides telecommunications service in this state;

14 ~~30.~~ 43. "Telecommunications service" means the offering of
15 telecommunications for a fee;

16 ~~31.~~ 44. "Telemedicine service" means the practice of health
17 care delivery, diagnosis, consultation and treatment including but
18 not limited to the transfer of medical data or exchange of medical
19 education information by means of audio, video or data
20 communications. Telemedicine service shall not mean a consultation
21 provided by telephone or facsimile machine and shall not include
22 bandwidth for administrative functions beyond medical record
23 processing or bandwidth available for nontelemedicine purposes;
24

1 45. "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.~~ 46. "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 47. "Wire center" means a geographic area normally served by a
9 central office; and

10 48. "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, any
5 service provider that pays into the OUSF, the Oklahoma Universal
6 Service Fund Beneficiary or the Attorney General, shall have fifteen
7 (15) days to file a request for reconsideration by the Commission of
8 the determination made by the Administrator. If the Commission does
9 not issue a final order within thirty (30) days from the date the
10 request for reconsideration is filed, the request shall be deemed
11 approved on an interim basis subject to refund with interest. The
12 interest rate on a refund shall be at a rate of not more than the
13 interest rate established by the Commission on customer deposits and
14 shall accrue for a period not to exceed ninety (90) days from the
15 date the funds were received by the requesting eligible provider.
16 If the Commission does not issue a final order within one hundred
17 twenty (120) days of the filing of the request for reconsideration,
18 then the request for OUSF or OLF funding as filed shall be deemed
19 approved on a permanent basis without order of the Commission and
20 the OUSF and OLF funding shall be paid within thirty (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 or 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 administration, processing and an annual independent audit,
6 if. The annual audit shall not be performed by the Commission
7 staff; and

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

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

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

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,

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~~ intrastate retail Oklahoma Voice over Internet

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

15 B. The Corporation Commission shall establish the ~~Oklahoma~~
16 ~~Lifeline Fund charges~~ OLF assessment and the ~~Oklahoma Universal~~
17 ~~Service Fund charges~~ OUSF assessment at a level sufficient to
18 recover costs of administration and payments for OUSF and OLF
19 requests for funding as provided for in the Oklahoma
20 Telecommunications Act of 1997. The Commission shall provide for
21 administration of the two funds by Commission employees or OLF and
22 OUSF shall be provided by contracting for such services with a party
23 having no conflicting interest in the provision of
24 telecommunications services the Public Utility Division of the

1 Commission. The administrative function shall be headed by ~~an~~ the
2 Administrator as defined in Section 139.102 of this title. The
3 Administrator shall be an independent evaluator. The Administrator
4 may enter into contracts to assist with the administration of the
5 OLF and OUSF.

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

22 D. The monies deposited in the ~~Oklahoma Lifeline Fund~~ OLF, the
23 ~~Oklahoma Universal Service Fund~~ OUSF and the Oklahoma High Cost Fund
24 shall at no time become monies of the state and shall not become

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

15 E. 1. Notwithstanding subsection A of this section, the OUSF
16 charge applicable to prepaid wireless telecommunications service
17 shall be collected by the seller from the consumer on each retail
18 transaction in accordance with the procedures established under
19 Section 2843.2 of Title 63 of the Oklahoma Statutes. The OUSF
20 charge shall be remitted by the seller to the Tax Commission using
21 procedures established by Section 2843.2 of Title 63 of the Oklahoma
22 Statutes.

23 2. The rate of the OUSF charge applicable to prepaid wireless
24 telecommunications service shall be converted from a percentage to a

1 flat transaction amount by multiplying the percentage rate
2 established by the Commission by the inverse of the Federal
3 Communications Commission "safe harbor" percentage for determining
4 the interstate portion of a fixed monthly wireless charge, and then
5 multiplying the result times Twenty-five Dollars (\$25.00). Such
6 amount shall be rounded to the nearest whole cent.

7 3. Any rate charge approved by the Commission shall be applied
8 on July 1 of any calendar year. The Commission shall notify the Tax
9 Commission within fifteen (15) days of final approval of any change
10 in the OUSF rate applicable to prepaid wireless telecommunications
11 service. No more than one rate change shall be permitted in a
12 calendar year.

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

16 A. The following services are hereby declared to be Special
17 Universal Services:

18 1. Each eligible healthcare entity in this state as defined in
19 Section 139.102 of this title shall be eligible to receive Special
20 Universal Services for telemedicine providers. Special Universal
21 Services for telemedicine providers shall include the provision of
22 bandwidth per standards as recommended by the Federal Communications
23 Commission sufficient for providing telemedicine services including
24 the telemedicine line, reasonable installation and network

1 termination equipment owned and operated by the eligible provider
2 that is necessary to provide the eligible service. In no instance
3 shall the Oklahoma Universal Service Fund (OUSF) provide funding for
4 separately billed quality-of-service products, public access to Wi-
5 Fi or amounts to cover on-site support personnel beyond the repair
6 of carrier-owned equipment;

7 2. Each public school as defined in Section 139.102 of this
8 title shall be eligible to receive Special Universal Services for
9 schools. Special Universal Services for schools shall include the
10 provision of bandwidth sufficient for providing educational services
11 not to exceed, without good cause shown, the standards established
12 for the relevant funding year by the State Educational Technology
13 Directors Association (SETDA) or successor educational broadband
14 standard including Internet access lines, WAN connections,
15 reasonable installation, and network termination equipment owned and
16 operated by the eligible provider that is necessary to provide the
17 eligible service. In no instance shall the OUSF provide funding for
18 separately billed quality-of-service products or amounts to cover
19 on-site support personnel beyond the repair of carrier-owned
20 equipment. Student counts as reported to the State Department of
21 Education in October of the year prior to the relevant funding year
22 shall be utilized for the purpose of determining bandwidth
23 recommendations established by SETDA for purposes of this paragraph.
24 In the absence of standards prescribed for the applicable funding

1 year, the standards for the next prescribed funding year shall be
2 used; and

3 3. Each public library as defined in Section 139.102 of this
4 title shall be eligible to receive Special Universal Services for
5 libraries. Special Universal Services for libraries shall include
6 the provision of bandwidth sufficient for providing library services
7 per standards as recommended by the Federal Communications
8 Commission including Internet access lines, reasonable installation,
9 and network termination equipment owned and operated by the eligible
10 provider that is necessary to provide the eligible service. In no
11 instance shall the OUSF provide funding for separately billed
12 quality-of-service products or amounts to cover on-site support
13 personnel beyond the repair of carrier-owned equipment

14 B. 1. The credit amount for the provision of Special Universal
15 Services as provided for in subsection A of this section shall be
16 determined as provided for in this subsection.

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

23 3. For eligible services that are exempt from competitive
24 bidding as set forth in subsection C of this section or were

1 competitively bid by the Oklahoma Universal Service Fund Beneficiary
2 or a consortium in compliance with one of the Federal Universal
3 Service Support Mechanisms or successor program or programs, the
4 credit amount shall be the total prediscount amount of eligible
5 services plus installation charges, less federal funding support for
6 the same services including installation charges issued in a funding
7 commitment letter or similar approval document for the Federal
8 Universal Service Support Mechanism or successor program or programs
9 for the applicable funding year.

10 4. All Special Universal Services supported by the OUSF shall
11 be competitively bid. In cases where Special Universal Services
12 were not competitively bid either in compliance with the Federal
13 Universal Service Support Mechanism or successor program or programs
14 or the competitive bidding requirements established in subsection C
15 of this section, the Administrator may provide support as provided
16 for in paragraph 6 of this subsection. If the Special Universal
17 Services of an Oklahoma Universal Services Fund Beneficiary could
18 not be or were not competitively bid as part of the Federal
19 Universal Service Support Mechanism or successor program or
20 programs, then the Special Universal Services shall be competitively
21 bid as provided for in subsection C of this section. The provisions
22 of this paragraph shall only apply for Special Universal Services
23 that were competitively bid as provided for in subsection C of this
24 section and for Special Universal Services that will not receive

1 federal support from the Federal Universal Service Support Mechanism
2 or successor program or programs, including but not limited to
3 services associated with a healthcare entity located in an urban
4 area that is not eligible to participate individually in rural
5 health program of the Federal Communications Commission. Eligible
6 Special Universal Services that were competitively bid as part of a
7 consortium in the Federal Universal Service Support Mechanism or
8 successor program or programs shall not be subject to the provisions
9 of this paragraph even if the services will not receive federal
10 support from the Federal Universal Service Support Mechanism or
11 successor program or programs. For eligible services subject to the
12 provisions of this paragraph, the credit amount shall be:

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

1 cost of the lowest reasonable cost qualifying bid for
2 the total cost of eligible services including
3 installation.

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

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

1 the telephone exchange where the Oklahoma Universal
2 Service Fund Beneficiary is located, and

3 h. results in an approved credit amount that is not more
4 than twenty-five percent (25%) greater than other
5 qualifying bids without good cause shown.

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

13 C. 1. Except as otherwise provided for in subsection F of this
14 section, 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 which is competitively bid by an
22 Oklahoma Universal Service Fund Beneficiary in
23 compliance with one of the Federal Universal Service
24

1 Support Mechanisms or successor program or programs,
2 or

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

9 4. If the eligible services were not competitively bid in
10 compliance with one of the Federal Universal Service Support
11 Mechanisms or successor program or programs, the Oklahoma Universal
12 Service Fund Beneficiary shall conduct a fair and open competitive
13 bidding process pursuant to competitive bidding criteria provided by
14 the Administrator as follows:

- 15 a. the solicitation of bids shall clearly identify the
16 bandwidth requested by the Oklahoma Universal Service
17 Fund Beneficiary or consortium,
18 b. the Oklahoma Universal Service Fund Beneficiary shall
19 not limit bidders based upon technology,
20 c. the bidding shall be open to all carriers authorized
21 to receive OUSF funding in the telephone exchange
22 where the Oklahoma Universal Service Fund Beneficiary
23 is located or where the members of the consortium are
24 located, and

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

5 5. Eligible services that are exempt from competitive bidding
6 pursuant to state law or the rules of the Federal Universal Service
7 Support Mechanisms or successor program or programs shall be exempt
8 from the Special Universal Services competitive bidding requirements
9 set forth in this subsection and the Oklahoma Universal Service Fund
10 Beneficiary shall provide evidence of the exemption as part of the
11 funding request.

12 6. If a long-term contract includes change clauses for changes
13 in sites or services, the Oklahoma Universal Service Fund
14 Beneficiary shall not be required to conduct a new competitive bid
15 during the life of the contract.

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

18 2. The OUSF shall not fund more than one eligible provider for
19 the same service at the same location for the same time period,
20 except during a transition period from one eligible provider to
21 another. Funding during a transition period shall not exceed thirty
22 (30) days.

23 E. The Administrator shall have the authority to investigate
24 each request for OUSF funding for Special Universal Services in

1 order to ensure that the OUSF pays only for the Special Universal
2 Services authorized in this section. The Administrator shall deny
3 requests for OUSF funding in excess of the credit amounts authorized
4 in subsection B of this section unless good cause is shown.

5 F. 1. Beginning with the 2018-2019 funding year, if the fiscal
6 year carrier projection for Special Universal Services as reported
7 by carriers to the Corporation Commission in January or February of
8 the preceding funding year exceeds ten percent (10%) of the average
9 of the annual projections for the prior three (3) years and if the
10 annual fund disbursements for the preceding funding year as reported
11 by the Public Utility Division of the Corporation Commission in the
12 OUSF annual cash flow summary exceeds ten percent (10%) of the
13 average of the annual projections for the prior three (3) years,
14 then the provisions of this subsection shall apply for the
15 subsequent funding year.

16 2. The Corporation Commission shall have authority to
17 investigate and modify or reject in whole or part a Special
18 Universal Service request submitted under subsection A of this
19 section if the request does not meet the specified criteria, if the
20 investigation by the Corporation Commission determines that the
21 entity has not provided sufficient justification for the requested
22 services or if the Corporation Commission determined that granting
23 the request is not in the public interest due to waste, fraud or
24 abuse. The Commission may also require all Oklahoma Universal

1 Service Fund Beneficiaries to accept the lowest cost bid for all
2 services and require all competitive bids to meet the following
3 criteria:

- 4 a. the solicitation for bids shall clearly identify the
5 bandwidth requested by the Oklahoma Universal Service
6 Fund Beneficiary or consortium,
- 7 b. the Oklahoma Universal Service Fund Beneficiary or
8 consortium may not limit bidders based upon
9 technology,
- 10 c. the bidding shall be open to all carriers authorized
11 to receive OUSF funding in the exchange where the
12 Oklahoma Universal Service Fund Beneficiary or the
13 members of the consortium are located, and
- 14 d. the bidding may not be structured in a manner to
15 exclude carriers eligible to receive OUSF funding in
16 the telephone exchange where the Oklahoma Universal
17 Service Fund Beneficiary is located.

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

22 2. The Oklahoma Universal Service Fund Beneficiary
23 administrative preapproval process shall be as follows:
24

- 1 a. the Administrator shall establish an administrative
2 preapproval process initiated by the Oklahoma
3 Universal Service Fund Beneficiary for the purpose of
4 determining eligible services and credit amounts for
5 the upcoming funding year. The administrative
6 preapproval process shall include all necessary forms
7 and instructions, hereinafter referred to as the OUSF
8 administrative preapproval request. The Administrator
9 shall determine the form for the OUSF administrative
10 preapproval requests. The form shall be posted on the
11 Commission website no later than October 1 of each
12 year to become effective for OUSF administrative
13 preapproval requests submitted after December 31 of
14 that year. Any party may file an objection to the
15 form with the Commission within fifteen (15) days of
16 posting. The Commission shall issue a final order on
17 the objection to the form within thirty (30) days,
- 18 b. the OUSF administrative preapproval request may be
19 submitted by the Oklahoma Universal Service Fund
20 Beneficiary during the period of January 1 through
21 June 30 prior to the funding year,
- 22 c. the Administrator shall issue an approval funding
23 letter to the Oklahoma Universal Service Fund
24 Beneficiary and the eligible provider within ninety

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

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

21 e. any OUSF administrative preapproval request shall be
22 submitted to the Administrator in the format outlined
23 in instructions posted on the Commission website. The
24

1 annual OUSF administrative preapproval request shall
2 include but not be limited to the following:

3 (1) a Special Universal Services request form as
4 posted on the website of the Commission no later
5 than October 1 of each year for requests made
6 after December 31 of that year,

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

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

13 (4) only in instances where eligible services were
14 not competitively bid by the Oklahoma Universal
15 Service Fund Beneficiary or a consortium in
16 compliance with one of the Federal Universal
17 Service Support Mechanisms or successor program
18 or programs, competitive bidding documentation
19 for the relevant funding year,

20 f. issuance of an OUSF approval funding letter by the
21 Administrator shall not require a Commission order,
22 and

23 g. OUSF administrative preapproval requests not filed by
24 June 30 prior to the applicable funding year shall be

1 processed by the Administrator on a first-in-first-out
2 basis.

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

5 a. requests for reimbursement shall be submitted per
6 procedures as set forth in subsection D of Section
7 139.106 of this title,

8 b. for purposes of transparency and the necessity to
9 provide public information regarding growth of the
10 OUSF, the Administrator shall post on the Commission
11 website a running tally, updated monthly, of the
12 amount of funds approved and the amount of funds
13 disbursed to each Oklahoma Universal Service Fund
14 Beneficiary and eligible provider for each funding
15 year,

16 c. funding for eligible services, including federal
17 funding, shall not exceed actual eligible expenses,

18 d. any change in cost of eligible services during the
19 funding year shall be reported by the eligible
20 provider to the OUSF and:

21 (1) all decreases in cost shall be deemed approved
22 until the next eligible bidding period and all
23 cost savings shall be properly allocated to the
24

1 OUSF and the Oklahoma Universal Service Fund
2 Beneficiary, and

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

5 e. issuance of a determination by the Administrator shall
6 not require a Commission order.

7 SECTION 6. AMENDATORY 63 O.S. 2011, Section 2843.2, is
8 amended to read as follows:

9 Section 2843.2 A. As used in this section, unless the context
10 otherwise requires:

11 1. "Combined fee" means the sum of the prepaid wireless nine-
12 one-one fee and the Oklahoma Universal Service Fund charge;

13 2. "Consumer" means a person who purchases prepaid wireless
14 telecommunications service in a retail transaction;

15 ~~2.~~ 3. "Oklahoma Universal Service Fund charge" means the charge
16 imposed under Section 139.107 of Title 17 of the Oklahoma Statutes;

17 4. "Prepaid wireless nine-one-one fee" means the fee that is
18 required to be collected by a seller from a consumer in the amount
19 established in this section;

20 ~~3.~~ 5. "Provider" means a person who provides prepaid wireless
21 telecommunications service pursuant to a license issued by the
22 Federal Communications Commission;

1 ~~4.~~ 6. "Retail transaction" means the purchase of prepaid
2 wireless telecommunications service from a seller for any purpose
3 other than for resale; and

4 ~~5.~~ 7. "Seller" means a person who sells prepaid wireless
5 telecommunications service to another person.

6 B. There is hereby imposed a combined fee which includes the
7 following:

8 1. A prepaid wireless nine-one-one fee of fifty cents (\$0.50)
9 per retail transaction ~~or, on and after the effective date of an~~
10 ~~adjusted amount per retail transaction that is established under~~
11 ~~subsection G of this section, the adjusted amount; and~~

12 2. An Oklahoma Universal Service Fund charge. The amount of
13 the charge shall be determined as provided under Section 139.107 of
14 Title 17 of the Oklahoma Statutes.

15 C. The ~~prepaid wireless nine-one-one~~ combined fee shall be
16 collected as a single amount by the seller from the consumer with
17 respect to each retail transaction occurring in this state. The
18 amount of the ~~prepaid wireless nine-one-one~~ combined fee shall
19 either be separately stated on an invoice, receipt or similar
20 document that is provided to the consumer by the seller, or
21 otherwise disclosed to the consumer.

22 D. For purposes of subsection C of this section, a retail
23 transaction that is effected in person by a consumer at a business
24 location of the seller shall be treated as occurring in this state

1 if that business location is in this state. Any other retail
2 transaction shall be sourced as follows:

3 1. When the retail transaction does not occur at a business
4 location of the seller, the retail transaction is sourced to the
5 location where receipt by the consumer, or the consumer's donee,
6 designated as such by the consumer, occurs, including the location
7 indicated by instructions for delivery to the consumer or donee,
8 known to the seller;

9 2. When the provisions of paragraph 1 of this subsection do not
10 apply, the sale is sourced to the location indicated by an address
11 for the consumer that is available from the business records of the
12 seller that are maintained in the ordinary course of the seller's
13 business when use of this address does not constitute bad faith;

14 3. When the provisions of paragraphs 1 and 2 of this subsection
15 do not apply, the sale is sourced to the location indicated by an
16 address for the consumer obtained during the consummation of the
17 sale, including the address of a consumer's payment instrument, if
18 no other address is available, when use of this address does not
19 constitute bad faith; and

20 4. When none of the previous rules of paragraphs 1, 2, and 3 of
21 this subsection apply, including the circumstance in which the
22 seller is without sufficient information to apply the previous
23 rules, then the location will be determined by the address from
24 which the service was provided, disregarding for these purposes any

1 location that merely provided the digital transfer of the product
2 sold. If the seller knows the mobile telephone number, the location
3 will be that which is associated with the mobile telephone number.

4 E. The ~~prepaid wireless nine-one-one~~ combined fee is the
5 liability of the consumer and not of the seller or of any provider,
6 except that the seller shall be liable to remit all ~~prepaid wireless~~
7 ~~nine-one-one~~ combined fees that the seller collects from the
8 consumer as provided for in this section, including all ~~charges~~
9 combined fees that the seller is deemed to collect where the amount
10 of the combined fee has not been separately stated on an invoice,
11 receipt, or other similar document provided by the consumer to the
12 seller.

13 F. If the amount of the ~~prepaid wireless nine-one-one~~ combined
14 fee is separately stated on the invoice, the ~~prepaid wireless nine-~~
15 ~~one-one~~ combined fee shall not be included in the base for measuring
16 any tax, fee, surcharge, or other charge that is imposed by the
17 state, any political subdivision of this state, or any
18 intergovernmental agency.

19 G. The ~~prepaid wireless nine-one-one~~ combined fee shall be
20 proportionately increased or reduced, as applicable, upon any change
21 to the amount of the nine-one-one emergency wireless telephone fee
22 as provided in subsection A of Section 2843.1 of this title or the
23 Oklahoma Universal Service Fund charge as provided in Section
24 139.107 of Title 17 of the Oklahoma Statutes. ~~The~~ Any increase or

1 reduction in the combined fee shall be effective only on the
2 ~~effective date of the change to the nine-one-one emergency wireless~~
3 ~~telephone fee as provided in subsection A of Section 2843.1 of this~~
4 ~~title or, if later, the first day of the first calendar month to~~
5 ~~occur at least sixty (60) July 1 of any calendar year, provided that~~
6 not less than forty-five (45) days after have elapsed since the
7 enactment or final approval of the change. The Oklahoma Tax
8 Commission shall provide not less than thirty (30) days' advance
9 notice of an increase or reduction on its public website.

10 H. Prepaid wireless nine-one-one fees collected by sellers
11 shall be remitted to the Oklahoma Tax Commission at the times and in
12 a manner provided for under the Oklahoma Sales Tax Code with respect
13 to the sales tax imposed on prepaid wireless telecommunications
14 services. The Oklahoma Tax Commission shall establish registration
15 and payment procedures that substantially coincide with the
16 registration and payment procedures that apply under the Oklahoma
17 Sales Tax Code.

18 I. A seller shall be permitted to deduct and retain three
19 percent (3%) of the prepaid wireless nine-one-one fees collected
20 from consumers.

21 J. The audit and appeal procedures, including limitations
22 period, applicable to the Oklahoma Sales Tax Code shall apply to
23 ~~prepaid wireless nine-one-one~~ combined fees.

24

1 K. The Oklahoma Tax Commission shall establish procedures by
2 which a seller may document that a sale is not a retail transaction.
3 The procedures shall be in substantial conformity with the
4 procedures for document sale for resale transactions under the
5 Oklahoma Sales Tax Code.

6 L. Within thirty (30) days of receipt, the Oklahoma Tax
7 Commission shall pay ~~all remitted~~ the proportion of the combined fee
8 representing prepaid wireless nine-one-one fees to the governing
9 bodies that the Statewide Nine-One-One Advisory Board has certified
10 as eligible to receive funds. The certification shall be provided
11 to the Oklahoma Tax Commission annually before July 1. Eligible
12 governing bodies shall be those governing bodies that have imposed,
13 and are collecting, the nine-one-one emergency wireless telephone
14 fee as authorized in subsection A of Section 2843.1 of this title
15 or, for those counties that have not assessed a nine-one-one
16 emergency wireless telephone fee, the substate planning district
17 designated by that county. It shall be the duty and obligation of
18 the substate planning district to hold in a separate escrow account
19 all fees paid on behalf of counties in its region that have not
20 assessed a nine-one-one emergency wireless telephone fee pursuant to
21 Section 2843.1 of this title, until such time as the county votes to
22 assess the fee or develops wireless nine-one-one service pursuant to
23 Section 2849 of this title. Distribution shall be as follows:

24

1 1. Ninety-eight percent (98%) of the revenue from the nine-one-
2 one fee is hereby allocated to the governing bodies as defined in
3 Section 2843 of this title and shall be paid to the governing
4 bodies. The share for each governing body shall be determined by
5 dividing the population of the governing body by the total
6 population of the state. The Oklahoma Tax Commission shall develop
7 the formula on the basis of population residing within the governing
8 body, as shown by the latest available Federal Census estimates as
9 of July 1, or from the best information then available to the
10 Commission when the information is not available from the latest
11 available Federal Census; and

12 2. The remaining two percent (2%) of the revenue from the nine-
13 one-one fee shall be retained by the Oklahoma Tax Commission to
14 reimburse its direct cost of administering the collection and
15 remittance of prepaid wireless nine-one-one fees.

16 Notwithstanding paragraphs 1 and 2 of this subsection, in the
17 fiscal year in which this act takes effect, prior to making the
18 distributions provided in paragraphs 1 and 2 of this subsection, the
19 Oklahoma Tax Commission shall retain an amount not to exceed Three
20 Hundred Thousand Dollars (\$300,000.00) to cover programming and
21 other one-time costs to implement a system to collect the prepaid
22 wireless nine-one-one fees. Distributions to governing bodies that
23 enact the wireless nine-one-one fee authorized under Section 2843.1
24 of this title after the effective date of this act shall commence in

1 the calendar quarter after which the Oklahoma Tax Commission has
2 received at least one hundred twenty (120) days' written notice from
3 the governing body of the imposition of the fee.

4 M. Within thirty (30) days of receipt, the Tax Commission shall
5 pay the proportion of the combined fee representing the OUSF charge
6 to the Corporation Commission.

7 N. Money distributed by the Oklahoma Tax Commission to a
8 governing body pursuant to paragraph 1 of subsection L of this
9 section shall be used only for services related to nine-one-one
10 emergency wireless telephone services, including automatic number
11 identification and automatic location information services.

12 ~~N.~~ O. The provisions of subsection C of Section 2817 of this
13 title shall apply to providers and sellers of prepaid wireless
14 telecommunications service.

15 ~~O.~~ P. The prepaid wireless nine-one-one fee imposed by this
16 section shall be the only nine-one-one funding obligation imposed
17 with respect to prepaid wireless telecommunications services in this
18 state, and no tax, fee, surcharge, or other charge shall be imposed
19 by this state, any political subdivision of this state, or any
20 intergovernmental agency, for nine-one-one funding purposes, upon
21 any provider, seller, or consumer with respect to the sale,
22 purchase, use, or provision of prepaid wireless telecommunications
23 service.

24

1 ~~P.~~ Q. Money collected pursuant to this section from the prepaid
2 wireless nine-one-one fee shall be used only for services related to
3 nine-one-one emergency wireless telephone services, including
4 automatic number identification and automatic location information
5 services. The money remitted to the governing body and any other
6 money collected to fund the emergency wireless telephone system
7 shall be deposited in a special wireless nine-one-one account
8 established by the governing body to which the Oklahoma Tax
9 Commission has remitted the prepaid wireless nine-one-one fees and
10 that has established emergency wireless telephone service. The
11 special wireless nine-one-one account may be the same account that
12 is or was established by the governing body under subsection C of
13 Section 2843.1 of this title. Amounts not used within a given year
14 shall be carried forward.

15 ~~Q.~~ R. All wireless user information provided by a wireless
16 service provider shall be deemed proprietary and is not subject to
17 disclosure to the public or any other party.

18 SECTION 7. REPEALER 17 O.S. 2011, Section 139.109, as
19 last amended by Section 2, Chapter 182, O.S.L. 2014 (17 O.S. Supp.
20 2015, Section 139.109), is hereby repealed.

21 SECTION 8. It being immediately necessary for the preservation
22 of the public peace, health and safety, an emergency is hereby
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24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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