

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2616 _____
Of the printed Bill
Page 3-46 Section 2-5 Lines _____
Of the Engrossed Bill

By deleting all of Sections 2 through 5 and by adding new Sections 2
through 6 to read as follows:

(See Attached)

And by renumbering the subsequent section.

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Todd Thomsen

Reading Clerk

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

4 Section 139.102 As used in the Oklahoma Telecommunications Act
5 of 1997:

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

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

18 3. "Administrator" means the Director of the Public Utility
19 Division of the Corporation Commission;

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

21 ~~3.~~ 5. "Competitive local exchange carrier" or "CLEC" means,
22 with respect to an area or exchange, a telecommunications service
23 provider that is certificated by the Commission to provide local
24

1 exchange services in that area or exchange within the state after
2 July 1, 1995;

3 ~~4.~~ 6. "Competitively neutral" means not advantaging or favoring
4 one person over another;

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

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

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

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

11 10. "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.~~ 11. "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.~~ 12. "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.~~ 13. "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.~~ 14. "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. 254b, or is
17 receiving funding from a grant under a contract with
18 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. 450f et seq., or by
11 an urban Indian organization receiving funds under
12 Title V of the Indian Health Care Improvement Act, 25
13 U.S.C. 1651 et seq.;

14 15. "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 16. "Funding year" means for purposes of administering the
19 Oklahoma Universal Service Fund, the period of July 1 through June
20 30;

21 17. "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.~~ 18. "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.~~ 19. "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.~~ 20. "Installation charge" means any charge for a
15 nonrecurring service charged by an eligible provider necessary to
16 initiate Special Universal Services;

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

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

1 ~~14.~~ 23. "Local exchange telecommunications service" means a
2 regulated switched or dedicated telecommunications service which
3 originates and terminates within an exchange or an exchange service
4 territory. Local exchange telecommunications service may be
5 terminated by a telecommunications service provider other than the
6 telecommunications service provider on whose network the call
7 originated. The local exchange service territory defined in the
8 originating provider's tariff shall determine whether the call is
9 local exchange service;

10 ~~15.~~ 24. "Local exchange telecommunications service provider"
11 means a company holding a certificate of convenience and necessity
12 from the Commission to provide local exchange telecommunications
13 service;

14 ~~16.~~ 25. "Not-for-profit hospital" means:

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

24

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

8 ~~17.~~ 26. "Not-for-profit mental health and substance abuse
9 facility" means a facility operated by the Department of Mental
10 Health and Substance Abuse Services or a facility certified by the
11 Department of Mental Health and Substance Abuse Services as a
12 Community Mental Health Care Center, a Community-Based Structured
13 Crisis Center or a Community Comprehensive Addiction Recovery
14 Center;

15 ~~18.~~ 27. "Oklahoma High Cost Fund" means the fund established by
16 the Commission in Cause Nos. PUD 950000117 and 950000119;

17 ~~19.~~ 28. "Oklahoma Lifeline Fund" or "(OLF)" means the fund
18 established and required to be implemented by the Commission
19 pursuant to Section 139.105 of this title;

20 ~~20.~~ 29. "Oklahoma Universal Service Fund" or "(OUSF)" means the
21 fund established and required to be implemented by the Commission
22 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.

24

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,

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 0. 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 this 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."
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