

1 ENGROSSED HOUSE AMENDMENT  
TO  
2 ENGROSSED SENATE BILL NO. 672 By: Griffin of the Senate  
3 and  
4 Christian of the House  
5  
6

7 [ telecommunications - Oklahoma Telecommunications  
8 Act of 1997 - distribution of funds - Oklahoma  
9 Universal Service Fund - emergency prepaid wireless  
10 telephone fee - combined fees - procedures for  
collection and distribution of fees -  
effective date ]

11 NOTE: Emergency not considered

12 AUTHORS: Remove Representative Christian as principal House author  
13 and substitute with Representative Thomsen

14 Add Representative Sanders as coauthor

15 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
16 entire bill and insert

17  
18 "[ telecommunications - assessment of a universal  
19 service fee - Oklahoma Telecommunications Act of 1997  
20 - Oklahoma Universal Service Fund (OUSF) charge -  
21 Administrator to investigate Special Universal  
22 Service funding requests - codification -  
23 emergency ]

24

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

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

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

10 SECTION 2. AMENDATORY 17 O.S. 2011, Section 139.102, as  
11 last amended by Section 1, Chapter 245, O.S.L. 2014 (17 O.S. Supp.  
12 2015, Section 139.102), is amended to read as follows:

13 Section 139.102 As used in the Oklahoma Telecommunications Act  
14 of 1997:

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

19 2. "Administrative process" means an administrative application  
20 process which allows eligible providers to request funding for  
21 support for eligible services and an administrative submission  
22 process that allows Oklahoma Universal Service Fund Beneficiaries to  
23 request preapproval of their bidding process by submitting forms  
24 directly to the Administrator. Neither administrative process set

1 forth in this paragraph shall require an order from the Commission  
2 to determine eligibility for, allocate or disburse funds unless a  
3 request for reconsideration is filed;

4 3. "Administrator" means the Director of the Public Utility  
5 Division of the Corporation Commission;

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

7 ~~3.~~ 5. "Competitive local exchange carrier" or "CLEC" means,  
8 with respect to an area or exchange, a telecommunications service  
9 provider that is certificated by the Commission to provide local  
10 exchange services in that area or exchange within the state after  
11 July 1, 1995;

12 ~~4.~~ 6. "Competitively neutral" means not advantaging or favoring  
13 one person or technology over another;

14 ~~5.~~ 7. "Consortium" means, as used in Section 5 of this act, two  
15 or more Oklahoma Universal Service Fund Beneficiaries that choose to  
16 request support under the Federal Universal Service Support  
17 Mechanism or successor program or programs as a single entity;

18 8. "Contributing provider" means an entity that provides  
19 intrastate telecommunications to the public or to such classes of  
20 users as to be effectively available to the public for a fee. A  
21 contributing provider shall contribute to the Oklahoma Universal  
22 Service Fund and Oklahoma Lifeline Fund. Certain other providers of  
23 intrastate telecommunications, providers of intrastate  
24 telecommunications for a fee on a non-common-carrier basis and

1 interconnected Voice over Internet Protocol (VoIP) providers shall  
2 contribute to the Oklahoma Universal Service Fund and Oklahoma  
3 Lifeline Fund and shall be assessed using the assessment methodology  
4 as provided for in the decision of the Federal Communications  
5 Commission, FCC 10-185, which was released November 5, 2010, or such  
6 other assessment methodology that is not inconsistent with federal  
7 law. Entities exempt from contributing to the Federal Universal  
8 Service Support Mechanisms are also exempt from contributing to the  
9 Oklahoma Universal Service Fund and Oklahoma Lifeline Fund  
10 consistent with 47 C.F.R., Section 54.706(d). If the FCC expands  
11 the contributors to the Federal Universal Service Support Mechanism  
12 the term "contributing providers" shall be modified to conform to  
13 the definition of contributors as defined by the FCC if adopted by  
14 the Commission, after notice and hearing;

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

22 10. "Eligible provider" means, for purposes of Special  
23 Universal Services, providers of telecommunications services which  
24

1 hold a certificate of convenience and necessity and the  
2 telecommunications network known as OneNet;

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

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

- 9 a. change the content, format, code, or protocol of
- 10 transmitted information,
- 11 b. provide the customer new or restructured information,
- 12 or
- 13 c. involve end-user interaction with information stored
- 14 in a computer;

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

22 ~~8.~~ 14. "Facilities" means all the plant and equipment of a  
23 telecommunications service provider, including all tangible and  
24 intangible real and personal property without limitation, and any

1 and all means and instrumentalities in any manner owned, operated,  
2 leased, licensed, used, controlled, furnished, or supplied for, by,  
3 or in connection with the ~~regulated~~ business of any  
4 telecommunications service provider;

5 9. 15. "Federally Qualified Health Center" (FQHC) means an  
6 entity which:

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

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

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

24

1           d. is an outpatient health program or facility operated  
2           by a tribe or tribal organization under the Indian  
3           Self-Determination Act, 25 U.S.C., Section 450f et  
4           seq., or by an urban Indian organization receiving  
5           funds under Title V of the Indian Health Care  
6           Improvement Act, 25 U.S.C., Section 1651 et seq.;

7           16. "Federal Universal Service Support Mechanism" is the  
8           support program established by the Telecommunications Act of 1996,  
9           47 U.S.C., Section 254(h). The program includes support for  
10           schools, libraries and healthcare providers;

11           17. "Funding year" means, for purposes of administering the  
12           Oklahoma Universal Service Fund, the period of July 1 through June  
13           30;

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

22           ~~10.~~ 19. "Hospital" means a healthcare entity that has been  
23           granted a license as a hospital by the Oklahoma Department of Health  
24           for that particular location;

1       ~~11.~~ 20. "Incumbent local exchange telecommunications service  
2 provider" or "ILEC" means, with respect to an area or exchanges, any  
3 telecommunications service provider furnishing local exchange  
4 service in such area or exchanges within this state on July 1, 1995,  
5 pursuant to a certificate of convenience and necessity or  
6 grandfathered authority;

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

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

19       ~~13.~~ 23. "Internet" means the international research-oriented  
20 network comprised of business, government, academic and other  
21 networks;

22       ~~14.~~ 24. "Local exchange telecommunications service" means a  
23 regulated switched or dedicated telecommunications service which  
24 originates and terminates within an exchange or an exchange service



1 territory. Local exchange telecommunications service may be  
2 terminated by a telecommunications service provider other than the  
3 telecommunications service provider on whose network the call  
4 originated. The local exchange service territory defined in the  
5 originating provider's tariff shall determine whether the call is  
6 local exchange service;

7 ~~15.~~ 25. "Local exchange telecommunications service provider"  
8 means a company holding a certificate of convenience and necessity  
9 from the Commission to provide local exchange telecommunications  
10 service;

11 ~~16.~~ 26. "Not-for-profit hospital" means:

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

21 b. a hospital located in this state which is licensed as  
22 a hospital at that location pursuant to Section 1-701  
23 et seq. of Title 63 of the Oklahoma Statutes and is  
24 owned by a municipality, county, the state or a public

1 trust for the diagnosis, treatment, or care of  
2 patients in order to obtain medical care, surgical  
3 care, or obstetrical care;

4 ~~17.~~ 27. "Not-for-profit mental health and substance abuse  
5 facility" means a facility operated by the Department of Mental  
6 Health and Substance Abuse Services or a facility certified by the  
7 Department of Mental Health and Substance Abuse Services as a  
8 Community Mental Health Care Center, a Community-Based Structured  
9 Crisis Center or a Community Comprehensive Addiction Recovery  
10 Center;

11 ~~18.~~ 28. "Oklahoma High Cost Fund" means the fund established by  
12 the Commission in Cause Nos. PUD 950000117 and 950000119;

13 ~~19.~~ 29. "Oklahoma Lifeline Fund" or "OLF" means the fund  
14 established and required to be implemented by the Commission  
15 pursuant to Section 139.105 of this title;

16 ~~20.~~ 30. "Oklahoma Universal Service Fund" or "OUSF" means the  
17 fund established and required to be implemented by the Commission  
18 pursuant to Section 139.106 of this title;

19 ~~21.~~ 31. "Oklahoma Universal Service Fund Beneficiary" means an  
20 entity eligible to receive Special Universal Services support as  
21 provided for in subsection A of Section 5 of this act;

22 32. "Person" means any individual, partnership, association,  
23 corporation, governmental entity, public or private organization of  
24 any character, or any other entity;

1       ~~22.~~ 33. "Prediscount amount" means the total amount of eligible  
2 services before charges are reduced by federal or state funding  
3 support. The prediscount amount shall not include fees or taxes;

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

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

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

23       ~~23.~~ 36. "Public library" means a library or library system that  
24 is freely open to all persons under identical conditions and which

1 is supported in whole or in part by public funds. Public library  
2 shall not include libraries operated as part of any university,  
3 college, school museum, the Oklahoma Historical Society or county  
4 law libraries;

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

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

23 ~~26.~~ 39. "Special Universal Services" means the  
24 telecommunications services supported by the OUSF which are

1 furnished to public schools, public libraries, ~~not for profit~~  
2 ~~hospitals and county seats~~ eligible healthcare entities as provided  
3 for in Section ~~139.109~~ 5 of this ~~title~~ act;

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

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

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

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

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

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 a 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~~  
23 ~~declared to exist, by reason whereof this act shall take effect and~~  
24 ~~be in full force from and after its passage and approval."~~





1 ENGROSSED SENATE  
2 BILL NO. 672

By: Griffin of the Senate

3 and

4 Christian of the House

5  
6 [ telecommunications - Oklahoma Telecommunications  
7 Act of 1997 - distribution of funds - Oklahoma  
8 Universal Service Fund - emergency prepaid wireless  
9 telephone fee - combined fees - procedures for  
10 collection and distribution of fees -  
11 effective date ]

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

13 SECTION 9. AMENDATORY 17 O.S. 2011, Section 139.102, as  
14 last amended by Section 1, Chapter 245, O.S.L. 2014 (17 O.S. Supp.  
15 2014, Section 139.102), is amended to read as follows:

16 Section 139.102. As used in the Oklahoma Telecommunications Act  
17 of 1997:

18 1. "Access line" means the facility provided and maintained by  
19 a telecommunications service provider which permits access to or  
20 from the public switched network;

21 2. "Commission" means the Corporation Commission of this state;

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

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

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

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

8 6. "Enhanced service" means a service that is delivered over  
9 communications transmission facilities and that uses computer  
10 processing applications to:

- 11 a. change the content, format, code, or protocol of
- 12 transmitted information,
- 13 b. provide the customer new or restructured information,
- 14 or
- 15 c. involve end-user interaction with information stored
- 16 in a computer;

17 7. "Exchange" means a geographic area established by an  
18 incumbent local exchange telecommunications provider as filed with  
19 or approved by the Commission for the administration of local  
20 telecommunications service in a specified area which usually  
21 embraces a city, town, or village and its environs and which may  
22 consist of one or more central offices together with associated  
23 plant used in furnishing telecommunications service in that area;

24

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

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

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

19       11. "Incumbent local exchange telecommunications service  
20 provider" or "ILEC" means, with respect to an area or exchanges, any  
21 telecommunications service provider furnishing local exchange  
22 service in such area or exchanges within this state on July 1, 1995,  
23 pursuant to a certificate of convenience and necessity or  
24 grandfathered authority;

1 12. "Interexchange telecommunications carrier" or "IXC" means  
2 any person, firm, partnership, corporation or other entity, except  
3 an incumbent local exchange telecommunications service provider,  
4 engaged in furnishing regulated interexchange telecommunications  
5 services under the jurisdiction of the Commission;

6 13. "Internet" means the international research-oriented  
7 network comprised of business, government, academic and other  
8 networks;

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

18 15. "Local exchange telecommunications service provider" means  
19 a company holding a certificate of convenience and necessity from  
20 the Commission to provide local exchange telecommunications service;

21 16. "Not-for-profit hospital" means:

22 a. a hospital located in this state which has been  
23 licensed as a hospital at that location pursuant to  
24 Section 1-701 et seq. of Title 63 of the Oklahoma

1 Statutes for the diagnosis, treatment, or care of  
2 patients in order to obtain medical care, surgical  
3 care or obstetrical care and which is established as  
4 exempt from taxation pursuant to the provisions of the  
5 Internal Revenue Code, 26 U.S.C., Section 501(c)(3),  
6 or

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

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

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

22 19. "Oklahoma Lifeline Fund" means the fund established and  
23 required to be implemented by the Commission pursuant to Section  
24 139.105 of this title;

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

4       21. "Person" means any individual, partnership, association,  
5 corporation, governmental entity, public or private organization of  
6 any character, or any other entity;

7       22. "Prepaid wireless telecommunications service" means prepaid  
8 wireless telecommunications service as that term is defined in  
9 paragraph 12 of subsection A of Section 1354.30 of Title 68 of the  
10 Oklahoma Statutes;

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

- 16       a. a primary directory listing,
- 17       b. dual-tone multifrequency signaling,
- 18       c. access to operator services,
- 19       d. access to directory assistance services,
- 20       e. access to telecommunications relay services for the
- 21       deaf or hard-of-hearing,
- 22       f. access to ~~nine-one-one~~ 9-1-1 service where provided by
- 23       a local governmental authority or multijurisdictional
- 24       authority, and

1 g. access to interexchange long distance services;

2 ~~23.~~ 24. "Public library" means a library or library system that  
3 is freely open to all persons under identical conditions and which  
4 is supported in whole or in part by public funds. Public library  
5 shall not include libraries operated as part of any university,  
6 college, school museum, the Oklahoma Historical Society or county  
7 law libraries;

8 ~~24.~~ 25. "Public school" means all free schools supported by  
9 public taxation, and shall include grades prekindergarten through  
10 twelve;

11 ~~25.~~ 26. "Regulated telecommunications service" means the  
12 offering of telecommunications for a fee directly to the public  
13 where the rates for such service are regulated by the Commission.  
14 Regulated telecommunications service does not include the provision  
15 of nontelecommunications services, including, but not limited to,  
16 the printing, distribution, or sale of advertising in telephone  
17 directories, maintenance of inside wire, customer premises  
18 equipment, and billing and collection service, nor does it include  
19 the provision of wireless telephone service, enhanced service, and  
20 other unregulated services, including services not under the  
21 jurisdiction of the Commission, and services determined by the  
22 Commission to be competitive;

23 ~~26.~~ 27. "Special Universal Services" means the  
24 telecommunications services supported by the OUSF which are

1 furnished to public schools, public libraries, not-for-profit  
2 hospitals and county seats as provided for in Section 139.109 of  
3 this title;

4 ~~27.~~ 28. "Tariff" means all or any part of the body of rates,  
5 tolls, charges, classifications, and terms and conditions of service  
6 relating to regulated services offered, the conditions under which  
7 offered, and the charges therefor, which have been filed with the  
8 Commission and have become effective;

9 ~~28.~~ 29. "Telecommunications" means the transmission, between or  
10 among points specified by the user, of voice or data information of  
11 the user's choosing, without change in the form or content of the  
12 information as sent and received;

13 ~~29.~~ 30. "Telecommunications carrier" means a person that  
14 provides telecommunications service in this state;

15 ~~30.~~ 31. "Telecommunications service" means the offering of  
16 telecommunications for a fee;

17 ~~31.~~ 32. "Universal service area" has the same meaning as the  
18 term "service area" as defined in 47 U.S.C., Section 214(e)(5); and

19 ~~32.~~ 33. "Wire center" means a geographic area normally served  
20 by a central office.

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

23 Section 139.107. A. The Oklahoma Lifeline Fund and the  
24 Oklahoma Universal Service Fund shall be funded in a competitively



1 neutral manner by all telecommunications carriers. The funding from  
2 each carrier shall be based on the total retail-billed Oklahoma  
3 intrastate telecommunications revenues, from both regulated and  
4 unregulated services, of the telecommunications carrier as a  
5 percentage of all telecommunications carriers' total retail-billed  
6 intrastate telecommunications revenues, from both regulated and  
7 unregulated services.

8 1. Notwithstanding subsection A of this section, the OUSF  
9 charge applicable to prepaid wireless telecommunications service  
10 shall be collected by the seller from the consumer on each retail  
11 transaction in accordance with the procedures established under  
12 Section 2843.2 of Title 63 of the Oklahoma Statutes. The OUSF  
13 charge shall be remitted by the seller to the Tax Commission using  
14 procedures established by Section 2843.2 of Title 63 of the Oklahoma  
15 Statutes.

16 2. The rate of the OUSF charge applicable to prepaid wireless  
17 telecommunications service shall be converted from a percentage to a  
18 flat transaction amount by multiplying the percentage rate  
19 established by the Commission by the inverse of the Federal  
20 Communications Commission "safe harbor" percentage for determining  
21 the interstate portion of a fixed monthly wireless charge, and then  
22 multiplying the result times Twenty-five Dollars (\$25.00). Such  
23 amount shall be rounded to the nearest whole cent.

24

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

7       B. The Corporation Commission shall establish the Oklahoma  
8 Lifeline Fund charges and the Oklahoma Universal Service Fund  
9 charges at a level sufficient to recover costs of administration.  
10 The Commission shall provide for administration of the two funds by  
11 Commission employees or by contracting for such services with a  
12 party having no conflicting interest in the provision of  
13 telecommunications services. The administrative function shall be  
14 headed by an Administrator.

15       C. If the Commission determines after notice and hearing that a  
16 telecommunications carrier has acted in violation of this section,  
17 in addition to the other enforcement powers of the Commission,  
18 including its contempt powers and authority to revoke a provider's  
19 certificate of convenience and necessity, the Commission may bring  
20 an action on behalf of the Oklahoma Lifeline Fund or the Oklahoma  
21 Universal Service Fund, in the district court that the Commission  
22 deems appropriate, to recover any unpaid fees and charges the  
23 Commission has determined are due and payable, including interest,  
24 administrative and adjudicative costs, and attorney fees. Upon

1 collection of the charges and costs, the Administrator shall pay the  
2 costs of the actions and deposit the remaining funds in the Oklahoma  
3 Lifeline Fund or the Oklahoma Universal Service Fund as appropriate.

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

20 SECTION 11. AMENDATORY 63 O.S. 2011, Section 2843.2, is  
21 amended to read as follows:

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

24

1       1. "Combined fee" means the sum of the prepaid wireless 9-1-1  
2 fee and the Oklahoma Universal Service Fund charge;

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

5       ~~2.~~ 3. "Oklahoma Universal Service Fund charge" means the charge  
6 imposed under paragraph 2 of subsection A of Section 139.107 of  
7 Title 17 of the Oklahoma Statutes;

8       4. "Prepaid wireless ~~nine-one-one~~ 9-1-1 fee" means the fee that  
9 is required to be collected by a seller from a consumer in the  
10 amount established in this section;

11       ~~3.~~ 5. "Provider" means a person who provides prepaid wireless  
12 telecommunications service pursuant to a license issued by the  
13 Federal Communications Commission;

14       ~~4.~~ 6. "Retail transaction" means the purchase of prepaid  
15 wireless telecommunications service from a seller for any purpose  
16 other than for resale; and

17       ~~5.~~ 7. "Seller" means a person who sells prepaid wireless  
18 telecommunications service to another person.

19       B. There is hereby imposed a ~~prepaid wireless nine-one-one~~  
20 combined fee which includes the following:

21       1. A prepaid wireless 9-1-1 fee of fifty cents (\$0.50) per  
22 retail transaction ~~or, on and after the effective date of an~~  
23 ~~adjusted amount per retail transaction that is established under~~  
24 ~~subsection C of this section, the adjusted amount; and~~

1        2. An Oklahoma Universal Service Fund charge.

2        The amount of the fee shall be determined as provided under  
3 paragraph 2 of subsection A of Section 139.107 of Title 17 of the  
4 Oklahoma Statutes.

5        C. The ~~prepaid wireless nine-one-one~~ combined fee shall be  
6 collected as a single amount by the seller from the consumer with  
7 respect to each retail transaction occurring in this state. The  
8 amount of the ~~prepaid wireless nine-one-one~~ combined fee shall  
9 either be separately stated on an invoice, receipt or similar  
10 document that is provided to the consumer by the seller, or  
11 otherwise disclosed to the consumer.

12        D. For purposes of subsection C of this section, a retail  
13 transaction that is effected in person by a consumer at a business  
14 location of the seller shall be treated as occurring in this state  
15 if that business location is in this state. Any other retail  
16 transaction shall be sourced as follows:

17        1. When the retail transaction does not occur at a business  
18 location of the seller, the retail transaction is sourced to the  
19 location where receipt by the consumer, or the consumer's donee,  
20 designated as such by the consumer, occurs, including the location  
21 indicated by instructions for delivery to the consumer or donee,  
22 known to the seller;

23        2. When the provisions of paragraph 1 of this subsection do not  
24 apply, the sale is sourced to the location indicated by an address

1 for the consumer that is available from the business records of the  
2 seller that are maintained in the ordinary course of the seller's  
3 business when use of this address does not constitute bad faith;

4 3. When the provisions of paragraphs 1 and 2 of this subsection  
5 do not apply, the sale is sourced to the location indicated by an  
6 address for the consumer obtained during the consummation of the  
7 sale, including the address of a consumer's payment instrument, if  
8 no other address is available, when use of this address does not  
9 constitute bad faith; and

10 4. When none of the previous rules of paragraphs 1, 2, and 3 of  
11 this subsection apply, including the circumstance in which the  
12 seller is without sufficient information to apply the previous  
13 rules, then the location will be determined by the address from  
14 which the service was provided, disregarding for these purposes any  
15 location that merely provided the digital transfer of the product  
16 sold. If the seller knows the mobile telephone number, the location  
17 will be that which is associated with the mobile telephone number.

18 E. The ~~prepaid wireless nine-one-one~~ combined fee is the  
19 liability of the consumer and not of the seller or of any provider,  
20 except that the seller shall be liable to remit all ~~prepaid wireless~~  
21 ~~nine-one-one~~ combined fees that the seller collects from the  
22 consumer as provided for in this section, including all ~~charges~~  
23 combined fees that the seller is deemed to collect where the amount  
24 of the combined fee has not been separately stated on an invoice,

1 receipt, or other similar document provided by the consumer to the  
2 seller.

3 F. If the amount of the ~~prepaid wireless nine one one~~ combined  
4 fee is separately stated on the invoice, the ~~prepaid wireless nine~~  
5 ~~one one~~ combined fee shall not be included in the base for measuring  
6 any tax, fee, surcharge, or other charge that is imposed by the  
7 state, any political subdivision of this state, or any  
8 intergovernmental agency.

9 G. The ~~prepaid wireless nine one one~~ combined fee shall be  
10 proportionately increased or reduced, as applicable, upon any change  
11 to the amount of the ~~nine one one~~ 9-1-1 emergency wireless telephone  
12 fee as provided in subsection A of Section 2843.1 of this title or  
13 the Oklahoma Universal Service Fund charge as provided in paragraph  
14 2 of subsection A of Section 139.107 of Title 17 of the Oklahoma  
15 Statutes. ~~The~~ Any increase or reduction in the combined fee shall  
16 be effective only on ~~the effective date of the change to the nine~~  
17 ~~one one emergency wireless telephone fee as provided in subsection A~~  
18 ~~of Section 2843.1 of this title or, if later, the first day of the~~  
19 ~~first calendar month to occur at least sixty (60)~~ July 1 of any  
20 calendar year, provided that not less than forty-five (45) days  
21 ~~after the enactment of~~ have elapsed since the enactment or final  
22 approval of the change. The Oklahoma Tax Commission shall provide  
23 not less than thirty (30) days' advance notice of an increase or  
24 reduction on its public website.

1 H. ~~Prepaid wireless nine-one-one~~ 911 fees collected by sellers  
2 shall be remitted to the Oklahoma Tax Commission at the times and in  
3 a manner provided for under the Oklahoma Sales Tax Code with respect  
4 to the sales tax imposed on prepaid wireless telecommunications  
5 services. The Oklahoma Tax Commission shall establish registration  
6 and payment procedures that substantially coincide with the  
7 registration and payment procedures that apply under the Oklahoma  
8 Sales Tax Code.

9 I. A seller shall be permitted to deduct and retain three  
10 percent (3%) of the ~~prepaid wireless nine-one-one~~ 9-1-1 fees  
11 collected from consumers.

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

15 K. The Oklahoma Tax Commission shall establish procedures by  
16 which a seller may document that a sale is not a retail transaction.  
17 The procedures shall be in substantial conformity with the  
18 procedures for document sale for resale transactions under the  
19 Oklahoma Sales Tax Code.

20 L. Within thirty (30) days of receipt, the Oklahoma Tax  
21 Commission shall pay ~~all remitted~~ the proportion of the combined fee  
22 representing prepaid wireless ~~nine-one-one~~ 9-1-1 fees to the  
23 governing bodies that the Statewide ~~Nine-One-One~~ 9-1-1 Advisory  
24 Board has certified as eligible to receive funds. The certification



1 shall be provided to the Oklahoma Tax Commission annually before  
2 July 1. Eligible governing bodies shall be those governing bodies  
3 that have imposed, and are collecting, the ~~nine-one-one~~ 9-1-1  
4 emergency wireless telephone fee as authorized in subsection A of  
5 Section 2843.1 of this title or, for those counties that have not  
6 assessed a ~~nine-one-one~~ 9-1-1 emergency wireless telephone fee, the  
7 substate planning district designated by that county. It shall be  
8 the duty and obligation of the substate planning district to hold in  
9 a separate escrow account all fees paid on behalf of counties in its  
10 region that have not assessed a ~~nine-one-one~~ 9-1-1 emergency  
11 wireless telephone fee pursuant to Section 2843.1 of this title,  
12 until such time as the county votes to assess the fee or develops  
13 wireless ~~nine-one-one~~ 9-1-1 service pursuant to Section 2849 of this  
14 title. Distribution shall be as follows:

15 1. Ninety-eight percent (98%) of the revenue from the 9-1-1 fee  
16 is hereby allocated to the governing bodies as defined in Section  
17 2843 of this title and shall be paid to the governing bodies. The  
18 share for each governing body shall be determined by dividing the  
19 population of the governing body by the total population of the  
20 state. The Oklahoma Tax Commission shall develop the formula on the  
21 basis of population residing within the governing body, as shown by  
22 the latest available Federal Census estimates as of July 1, or from  
23 the best information then available to the Commission when the

24

1 information is not available from the latest available Federal  
2 Census; and

3 2. The remaining two percent (2%) of the revenue from the 9-1-1  
4 fee shall be retained by the Oklahoma Tax Commission to reimburse  
5 its direct cost of administering the collection and remittance of  
6 prepaid wireless ~~nine-one-one~~ 9-1-1 fees.

7 Notwithstanding paragraphs 1 and 2 of this subsection, in the  
8 fiscal year in which this act takes effect, prior to making the  
9 distributions provided in paragraphs 1 and 2 of this subsection, the  
10 Oklahoma Tax Commission shall retain an amount not to exceed Three  
11 Hundred Thousand Dollars (\$300,000.00) to cover programming and  
12 other one-time costs to implement a system to collect the prepaid  
13 wireless ~~nine-one-one~~ 9-1-1 fees. Distributions to governing bodies  
14 that enact the wireless ~~nine-one-one~~ 9-1-1 fee authorized under  
15 Section 2843.1 of this title after the effective date of this act  
16 shall commence in the calendar quarter after which the Oklahoma Tax  
17 Commission has received at least one hundred twenty (120) days'  
18 written notice from the governing body of the imposition of the fee.

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

22 N. Money distributed by the Oklahoma Tax Commission to a  
23 governing body pursuant to paragraph 1 of subsection L of this  
24 section shall be used only for services related to ~~nine-one-one~~ 9-1-

1 1 emergency wireless telephone services, including automatic number  
2 identification and automatic location information services.

3 ~~N.~~ O. The provisions of subsection C of Section 2817 of this  
4 title shall apply to providers and sellers of prepaid wireless  
5 telecommunications service.

6 ~~O.~~ P. The prepaid wireless ~~nine-one-one~~ 9-1-1 fee imposed by  
7 this section shall be the only ~~nine-one-one~~ 9-1-1 funding obligation  
8 imposed with respect to prepaid wireless telecommunications services  
9 in this state, and no tax, fee, surcharge, or other charge shall be  
10 imposed by this state, any political subdivision of this state, or  
11 any intergovernmental agency, for ~~nine-one-one~~ 9-1-1 funding  
12 purposes, upon any provider, seller, or consumer with respect to the  
13 sale, purchase, use, or provision of prepaid wireless  
14 telecommunications service.

15 ~~P.~~ Q. Money collected pursuant to this section The prepaid  
16 wireless 9-1-1 fee shall be used only for services related to ~~nine-~~  
17 ~~one-one~~ 9-1-1 emergency wireless telephone services, including  
18 automatic number identification and automatic location information  
19 services. The money remitted to the governing body and any other  
20 money collected to fund the emergency wireless telephone system  
21 shall be deposited in a special wireless ~~nine-one-one~~ 9-1-1 account  
22 established by the governing body to which the Oklahoma Tax  
23 Commission has remitted the prepaid wireless ~~nine-one-one~~ 9-1-1 fees  
24 and that has established emergency wireless telephone service. The

1 special wireless ~~nine one one~~ 9-1-1 account may be the same account  
2 that is or was established by the governing body under subsection C  
3 of Section 2843.1 of this title. Amounts not used within a given  
4 year shall be carried forward.

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

8 SECTION 12. This act shall become effective November 1, 2015.  
9 Passed the Senate the 11th day of March, 2015.

10  
11 \_\_\_\_\_  
12 Presiding Officer of the Senate

13 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
14 2015.

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16 \_\_\_\_\_  
17 Presiding Officer of the House  
18 of Representatives  
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