

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2572

By Committee on Appropriations

1-30

1 AN ACT concerning the adjutant general; relating to the funding for  
2 disasters; ~~KUSF; insurance fees and premium taxes;~~ creating the  
3 disaster reimbursement fund; ~~amending K.S.A. 2011 Supp. 66-2008~~  
4 ~~and 66-2010 and repealing the existing section and the Kansas~~  
5 **emergency management and homeland security fund.**  
6

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

8 ~~New~~ Section 1. (a) There is hereby established in the state treasury  
9 the disaster reimbursement fund. Moneys deposited in the disaster  
10 reimbursement fund may be expended for the expenses of any disaster  
11 issued a proclamation declaring a state of disaster emergency pursuant to  
12 K.S.A. 48-924, and amendments thereto. Expenditures from the disaster  
13 reimbursement fund shall be made upon warrants of the director of  
14 accounts and reports issued pursuant to vouchers approved by the adjutant  
15 general or by a person or persons designated by the adjutant general.

16 (b) **There is hereby established in the state treasury the Kansas**  
17 **emergency management and homeland security fund. Moneys**  
18 **deposited in the Kansas emergency management and homeland**  
19 **security fund may be expended for operating expenditures of the**  
20 **adjutant general related to emergency management and homeland**  
21 **security, including, but not limited to, direct and indirect operating**  
22 **expenses. Expenditures from the Kansas emergency management and**  
23 **homeland security fund shall be made upon warrants of the director**  
24 **of accounts and reports issued pursuant to vouchers approved by the**  
25 **adjutant general or by a person or persons designated by the adjutant**  
26 **general.**

27 (c) On or before the 10<sup>th</sup> day of each month, the director of accounts  
28 and reports shall transfer from the state general fund to the Kansas  
29 emergency management and homeland security fund interest earnings  
30 based on: (1) The average daily balance of moneys in the disaster  
31 reimbursement fund for the preceding month; and (2) the net earnings rate  
32 of the pooled money investment portfolio for the preceding month.

33 ~~New Sec. 2. (a) Subject to the provisions of subsection (b), on or~~  
34 ~~before July 10, 2012, and on or before the 10<sup>th</sup> day of each month~~  
35 ~~thereafter, the administrator of the KUSF shall pay from the KUSF to the~~  
36 ~~state treasurer \$833,334. Upon the receipt of the payment, the state~~

1 treasurer shall deposit the entire amount in the state treasury and credit it  
2 to the disaster reimbursement fund. Any such payments shall be made after  
3 all payments required by K.S.A. 66-2008, and amendments thereto, for the  
4 month are made from the KUSF.

5 ~~(b) Whenever the adjutant general determines that the unencumbered~~  
6 ~~balance of moneys credited to the disaster reimbursement fund at the end~~  
7 ~~of a fiscal year is equal to or greater than \$40,000,000, on or before June~~  
8 ~~30 of such fiscal year, the adjutant general shall notify the administrator of~~  
9 ~~the KUSF and for the ensuing fiscal year, the administrator of the KUSF~~  
10 ~~shall not make the payments to the state treasurer pursuant to subsection~~  
11 ~~(a):~~

12 ~~New Sec. 3. 2. (a) Subject to the provisions of subsection (b), on July~~  
13 ~~1, 2012, or as soon thereafter as moneys are available, and on each July 1~~  
14 ~~thereafter, the director of accounts and reports shall transfer \$12,000,000~~  
15 ~~from the state general fund to the disaster reimbursement fund. Each such~~  
16 ~~transfer shall be considered to be moneys that are received from fees and~~  
17 ~~premium taxes imposed on insurance companies and other entities~~  
18 ~~permitted by law to do business in the state subject to regulation by the~~  
19 ~~commissioner of insurance by statute and that are credited to the state~~  
20 ~~general fund pursuant to statute to assist in the payment of expenses of any~~  
21 ~~disaster issued a proclamation declaring a state of disaster emergency~~  
22 ~~pursuant to K.S.A. 48-924, and amendments thereto.~~

23 ~~(b) Whenever the adjutant general determines that the unencumbered~~  
24 ~~balance of moneys credited to the disaster reimbursement fund at the end~~  
25 ~~of a fiscal year is equal to or greater than \$40,000,000, on or before June~~  
26 ~~30 of such fiscal year, the adjutant general shall notify the director of~~  
27 ~~accounts and reports and for the ensuing fiscal year, the director of~~  
28 ~~accounts and reports shall not make the transfer pursuant to subsection (a).~~

29 ~~Sec. 4. K.S.A. 2011 Supp. 66-2008 is hereby amended to read as~~  
30 ~~follows: 66-2008. On or before January 1, 1997, the commission shall~~  
31 ~~establish the Kansas universal service fund, hereinafter referred to as the~~  
32 ~~KUSF:~~

33 ~~(a) The commission shall require every telecommunications carrier,~~  
34 ~~telecommunications public utility and wireless telecommunications service~~  
35 ~~provider that provides intrastate telecommunications services and, to the~~  
36 ~~extent not prohibited by federal law, every provider of interconnected VoIP~~  
37 ~~service, as defined by 47 C.F.R. § 9.3 (October 1, 2005), to contribute to~~  
38 ~~the KUSF on an equitable and nondiscriminatory basis. Any~~  
39 ~~telecommunications carrier, telecommunications public utility, wireless~~  
40 ~~telecommunications service provider or provider of interconnected VoIP~~  
41 ~~service which contributes to the KUSF may collect from customers an~~  
42 ~~amount equal to such carrier's, utility's or provider's contribution, but such~~  
43 ~~carrier, provider or utility may collect a lesser amount from its customer.~~

1 Any contributions in excess of distributions collected in any reporting  
2 year shall be applied to reduce the estimated contribution that would  
3 otherwise be necessary for the following year.

4 (b) Pursuant to the federal act and in addition to the provisions of  
5 section 2, and amendments thereto, distributions from the KUSF shall be  
6 made in a competitively neutral manner to qualified telecommunications  
7 public utilities, telecommunications carriers and wireless  
8 telecommunications providers, that are deemed eligible both under  
9 subsection (c)(1) of section 214 of the federal act and by the commission.

10 (e) The commission shall periodically review the KUSF to determine  
11 if the costs of qualified telecommunications public utilities,  
12 telecommunications carriers and wireless telecommunications service  
13 providers to provide local service justify modification of the KUSF. If the  
14 commission determines that any changes are needed, the commission shall  
15 modify the KUSF accordingly.

16 (d) Any qualified telecommunications carrier, telecommunications  
17 public utility or wireless telecommunications service provider may request  
18 supplemental funding from the KUSF based upon a percentage increase in  
19 access lines over the 12-month period prior to the request. The  
20 supplemental funding shall be incurred for the purpose of providing  
21 services to and within the service area of the qualified telecommunications  
22 carrier, telecommunications public utility or wireless telecommunications  
23 service provider. Supplemental funding from the KUSF shall be used for  
24 infrastructure expenditures necessary to serve additional customers within  
25 the service area of such qualifying utility, provider or carrier. All affected  
26 parties shall be allowed to review and verify a request of such a qualified  
27 utility, carrier or provider for supplemental funding from the KUSF, and to  
28 intervene in any commission proceeding regarding such request. The  
29 commission shall issue an order on the request within 120 days of filing.  
30 Additional funding also may be requested for: The recovery of shortfalls  
31 due to additional rebalancing of rates to continue maintenance of parity  
32 with interstate access rates; shortfalls due to changes to access revenue  
33 requirements resulting from changes in federal rules; additional investment  
34 required to provide universal service and enhanced universal service,  
35 deployed subject to subsection (a) of K.S.A. 66-2005, and amendments  
36 thereto; and for infrastructure expenditures in response to facility or  
37 service requirements established by any legislative, regulatory or judicial  
38 authority. Such requests shall be subject to simplified filing procedures and  
39 the expedited review procedures, as outlined in the stipulation attached to  
40 the order of November 19, 1990 in docket no. 127,140-U (Phase IV).

41 (e) For each local exchange carrier electing pursuant to subsection  
42 (b) of K.S.A. 66-2005, and amendments thereto, to operate under  
43 traditional rate of return regulation, all KUSF support, including any

1 adjustment thereto pursuant to this section shall be based on such carrier's  
2 embedded costs, revenue requirements, investments and expenses.

3 ~~(f) Additional supplemental funding from the KUSF, other than as~~  
4 ~~provided in subsection (d), may be authorized at the discretion of the~~  
5 ~~commission. However, the commission may require approval of such~~  
6 ~~funding to be based upon a general rate case filing. With respect to any~~  
7 ~~request for additional supplemental funding from the KUSF, the~~  
8 ~~commission shall act expeditiously, but shall not be subject to the 120 day~~  
9 ~~120-day deadline set forth in subsection (d).~~

10 Sec. 5. K.S.A. 2011 Supp. 66-2010 is hereby amended to read as  
11 follows: 66-2010. (a) The commission shall utilize a competitive bidding  
12 process to select a neutral, competent and bonded third party to administer  
13 the KUSF.

14 ~~(b) The administrator shall be responsible for: (1) Collecting and~~  
15 ~~auditing all relevant information from all qualifying telecommunications~~  
16 ~~public utilities, telecommunications carriers or wireless~~  
17 ~~telecommunications service providers receiving funds from or providing~~  
18 ~~funds to the KUSF; (2) verifying, based on the calculations of each~~  
19 ~~qualifying telecommunications carrier, telecommunications public utility~~  
20 ~~or wireless telecommunications service provider, the obligation of each~~  
21 ~~such qualifying carrier, utility or provider to generate the funds required by~~  
22 ~~the KUSF; (3) collecting all moneys due to the KUSF from all~~  
23 ~~telecommunications public utilities, telecommunications carriers and~~  
24 ~~wireless telecommunications service providers in the state; and (4)~~  
25 ~~distributing amounts on a monthly basis due to qualifying~~  
26 ~~telecommunications public utilities, wireless telecommunications service~~  
27 ~~providers and telecommunications carriers receiving KUSF funding; and~~  
28 ~~(5) administering the provisions of section 2, and amendments thereto.~~

29 ~~(c) Any information made available or received by the administrator~~  
30 ~~from carriers, utilities or providers receiving funds from or providing~~  
31 ~~funds to the KUSF shall not be subject to any provisions of the Kansas~~  
32 ~~open records act and shall be considered confidential and proprietary.~~

33 ~~(d) The administrator shall be authorized to maintain an action to~~  
34 ~~collect any funds owed by any telecommunications carrier, public utility or~~  
35 ~~wireless telecommunications provider in the district court in the county of~~  
36 ~~the registered office of such carrier, utility or provider or, if such carrier,~~  
37 ~~utility or provider does not have a registered office in the state, such an~~  
38 ~~action may be maintained in the county where such carrier's, utility's or~~  
39 ~~provider's principal office is located. If such carrier, utility or provider has~~  
40 ~~no principal office in the state, such an action may be maintained in the~~  
41 ~~district court of any county in which such carrier, utility or provider~~  
42 ~~provides service.~~

43 ~~(e) The KUSF administrator shall be responsible to ensure that funds~~

1 do not fall below the level necessary to pay all amounts collectively owed  
2 to all qualifying telecommunications public utilities, wireless  
3 telecommunications service providers and telecommunications carriers.  
4 The administrator shall have the authority to retain and invest in a prudent  
5 and reasonable manner any excess funds collected in any period to help  
6 ensure that adequate funds are available to cover amounts payable in other  
7 periods:

8 (f) (1) ~~Before July 1, of each year, the chief executive officer of the~~  
9 ~~state board of regents shall certify to the administrator of the KUSF the~~  
10 ~~amount provided by appropriation acts to be expended from the KAN-ED~~  
11 ~~fund for the fiscal year commencing the preceding July 1. Upon receipt of~~  
12 ~~the certification of the chief executive officer of the state board of regents,~~  
13 ~~the KUSF administrator shall add the amount certified to the amount~~  
14 ~~annually required to fund the KUSF as determined pursuant to subsection~~  
15 ~~(b).~~

16 (2) ~~On or before the 10<sup>th</sup> day of each month, the administrator of the~~  
17 ~~KUSF shall pay from the KUSF to the state treasurer <sup>1</sup>/<sub>12</sub> of the amount~~  
18 ~~certified by the chief executive officer of the state board of regents~~  
19 ~~pursuant to subsection (a) for the fiscal year preceding the fiscal year in~~  
20 ~~which the payment is made. Upon the receipt of the payment, the state~~  
21 ~~treasurer shall deposit the entire amount in the state treasury and credit it~~  
22 ~~to the KAN-ED fund. Any such payments shall be made after all payments~~  
23 ~~required by K.S.A. 66-2008, and amendments thereto, for the month are~~  
24 ~~made from the KUSF.~~

25 (3) ~~Not more than the following shall be paid from the KUSF to the~~  
26 ~~state treasurer pursuant to this subsection (f): In fiscal year 2006,~~  
27 ~~\$10,000,000; in fiscal year 2007, \$8,000,000; in fiscal year 2008,~~  
28 ~~\$6,000,000; and in fiscal year 2009, \$5,500,000.~~

29 (4) ~~The provisions of this subsection (f) shall expire on June 30,~~  
30 ~~2009. Thereafter, state general fund moneys shall be used to fund the~~  
31 ~~KAN-ED network and such funding shall be of the highest priority along~~  
32 ~~with education funding.~~

33 ~~Sec. 6.—K.S.A. 2011 Supp. 66-2008 and 66-2010 are hereby repealed.~~

34 ~~Sec. 7. 3. This act shall take effect and be in force from and after its~~  
35 ~~publication in the statute book.~~

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