

# HB 2616

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MODERNIZING THE OKLAHOMA UNIVERSAL SERVICES FUND

REP. TODD THOMSEN, UTILITIES COMMITTEE TO HOUSE VOTE BY 3/10

# Presented By:

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Universal Service Management Professionals

# Vote **YES** on HB2616 (Thomsen)

## Modernization of the Oklahoma Universal Service Fund (OUSF)

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Every citizen in Oklahoma will be positively impacted by the changes proposed in HB2616. From Oklahomans receiving health care via telemedicine in rural areas to job seekers uses Internet Access at their local library and students accessing online curriculum.

The proposed changes in HB 2616 for the Oklahoma Universal Services Fund administered by the Oklahoma Corporation Commission (OCC) are the result of a collaborative effort of Oklahoma's schools, libraries, health care providers and service providers to modernize the Special Universal Services Fund.

## **Vote YES on HB2616 (Thomsen)** **Modernization of the Oklahoma Universal Service Fund (OUSF)**

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Established in 1997, the fund provides affordable access to the Internet and information services for Oklahoma's students, library patrons and patients across the state. The changes proposed will implement procedures to modernize the program for advances in technology that have occurred since 1997, ease the administrative burden, control costs, increase efficiency and transparency, and provide regulatory certainty to this valuable fund.

# Vote **YES** on HB2616 (Thomsen)

## Modernization of the Oklahoma Universal Service Fund (OUSF)

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### Who is eligible for these funds?

- Common education,
- career technology school districts,
- libraries,
- not for profit hospitals,
- not for profit mental health,
- counties,
- Federally Qualified Health Centers and Corrections.

**Entities eligible for funds are not changed in HB 2616.**

# HB 2616 - SUPPORTERS

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**HB 2616 is supported by a collaborative of urban and rural telecommunications companies, schools, and health care entities including:**

- **Oklahoma Hospital Association,**
- **Oklahoma Primary Care Association,**
- **Telehealth Alliance of Oklahoma,**
- **Oklahoma Technology Association (School Technology Directors)**

# Reform

## CURRENT LAW

### Attempts at Reform:

The OCC has rulemaking proceedings every year on the OUSF. Problems of inconsistency continue with constant change in rules, forms & procedures. The beneficiaries have had significant additions to staff to try to manage the volume of affidavits, data requests, and other requests from OCC.

### Litigation Process

## HB 2616

### Reform of the fund and its modernization:

HB 2616 moves the fund from a litigation based system to an administrative process which is key to creating efficiency in the fund such as reducing OCC staff time and telecommunications carrier time spent on litigation of funding amounts.

### Administrative Process

# Need for OUSF Modernization

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## Commission Reduced Contribution Factor -

### **Significant loss to fund beginning in 2013 - TOTAL OVER 3 YEARS: (\$57,424,706)**

- Reduced to 0.64% and remained at reduced level for 16 months
- March 2014 - Recommended 4.77% but set at 2.16% (Cause PUD 201400341)

## Excessive reviews and oversight beginning in 2013

- Affidavits required by all applicants
  - 10 years of invoices, all bids, all bid evaluations, all bid decisions
  - **NO change in OUSF demand for schools & Libraries- approx. 9.5 million from 2011 to 2015**

Significant increase in PUD staff and **costs (up 62%)** to manage the large volume of data requests

Significant increase in cases for Reconsideration (**165 in FY14**; 49 in FY13; 19 in FY12)



# FINANCIAL IMPACT

ADMINISTRATIVE BURDEN –

EXPENDITURES INCREASED 62% FROM  
2011-2014

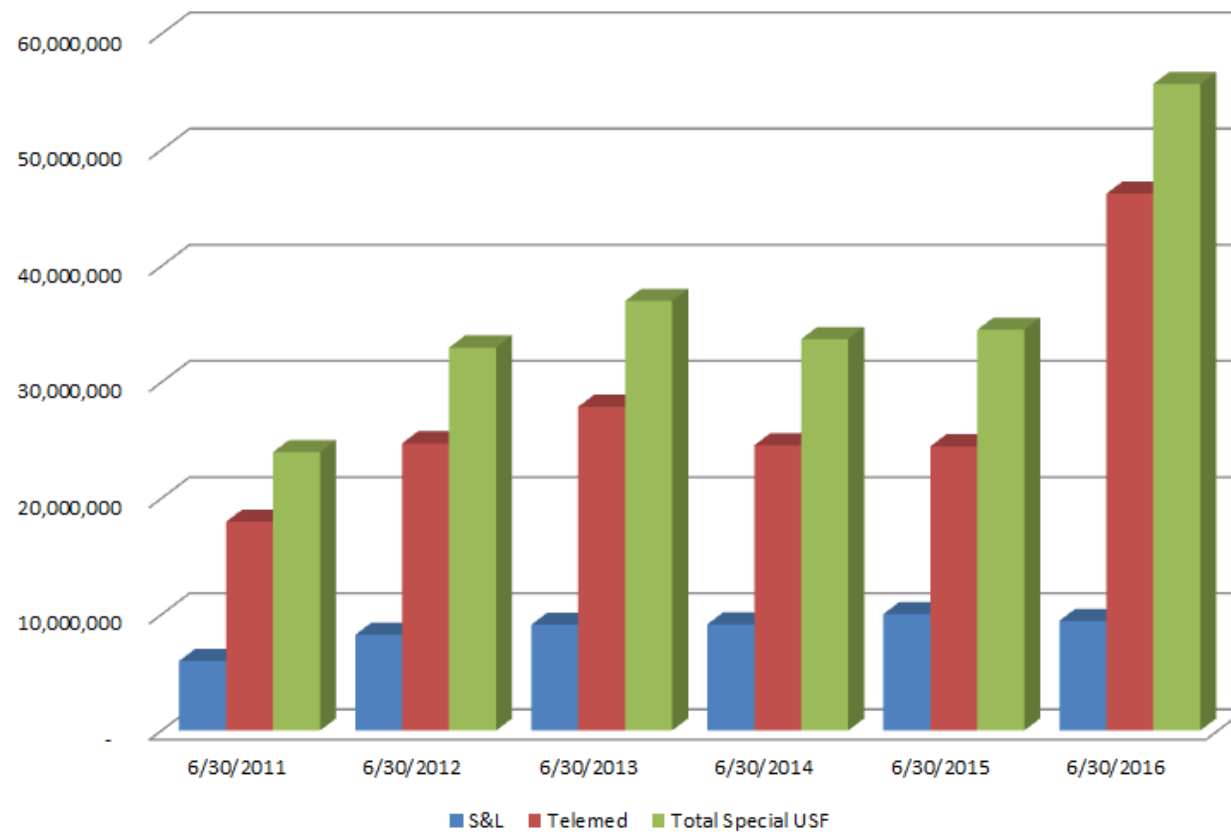
PUD STAFFING INCREASED 64% FROM  
2011-2014

PUD PERSONNEL COSTS INCREASED  
61% FROM 2011-2014

## CORPORATION COMMISSION - PUBLIC UTILITY DIVISION

ANALYSIS PUD:	
PUD increase in expenditures from 2011 to 2014:	
2,450,356	2011
3,968,842	2014
1,518,486	increase
62%	% increase
Staffing increase from 2011 to 2014:	
28	2011
46	2014
18	increase
64%	% increase
Personnel Costs increases from 2011 to 2014	
\$2,302,489	2011
\$3,699,587	2014
\$1,397,098	increase
61%	% increase

## Special Universal Service - Annual Budget



# OUSF Funding

FY	FUNDING REQUIREMENT	CONTRIBUTION FACTOR
2016	63,733,869	2.16% (4.32% recommended)
2015	49,809,803	2.16%
2014	63,662,904	0.64% *
2013	48,052,057	3.14%
2012	52,646,216	3.14%
2011	25,526,161	1.99%
2010	19,308,742	1.94%
2009	13,676,710	0.006%
2008	11,880,481	0.003 %

\*Reduced below prior years since fund was carrying a high cash balance.  
 1999 - 0.456%. Factor stayed relatively stable from then to FY 2009 ranging from a low of 0.400% to a high of 0.600%.

Oklahoma Corporation Commission Public Utility Division OUSF Annual Cash Flow Summary			
Funding Year End June 30	Annual Revenues Received	Annual Fund Disbursements	Annual Fund Balance
Jun-98	14,139,001.56	364,628.93	13,774,372.63
Jun-99	7,621,866.34	1,648,244.44	19,747,994.53
Jun-00	8,714,232.21	3,622,398.79	24,839,827.95
Jun-01	8,200,216.48	10,311,017.34	22,729,027.09
Jun-02	7,028,009.58	7,162,610.16	22,594,426.51
Jun-03	7,341,478.52	8,343,245.42	21,592,659.61
Jun-04	7,245,866.55	8,253,834.30	20,584,691.86
Jun-05	7,431,606.58	7,668,120.00	20,348,178.44
Jun-06	7,492,703.73	11,355,201.33	16,485,680.84
Jun-07	8,002,755.70	10,073,943.75	14,414,492.79
Jun-08	6,475,533.84	12,870,701.83	8,019,324.80
Jun-09	10,265,011.55	15,544,529.70	2,739,806.65
Jun-10	30,635,813.02	23,424,660.46	9,950,959.21
Jun-11	33,435,724.94	28,336,541.35	15,050,142.80
Jun-12	45,865,793.62	30,120,102.34	30,795,834.08
Jun-13	46,378,129.91	32,550,614.48	44,623,349.51
Jun-14	12,840,077.14	45,916,624.07	11,546,802.58
Jun-15	17,542,421.87	23,226,276.30	5,862,948.15
Jun-16	15,199,089.78	11,226,926.34	9,835,111.59

Source:

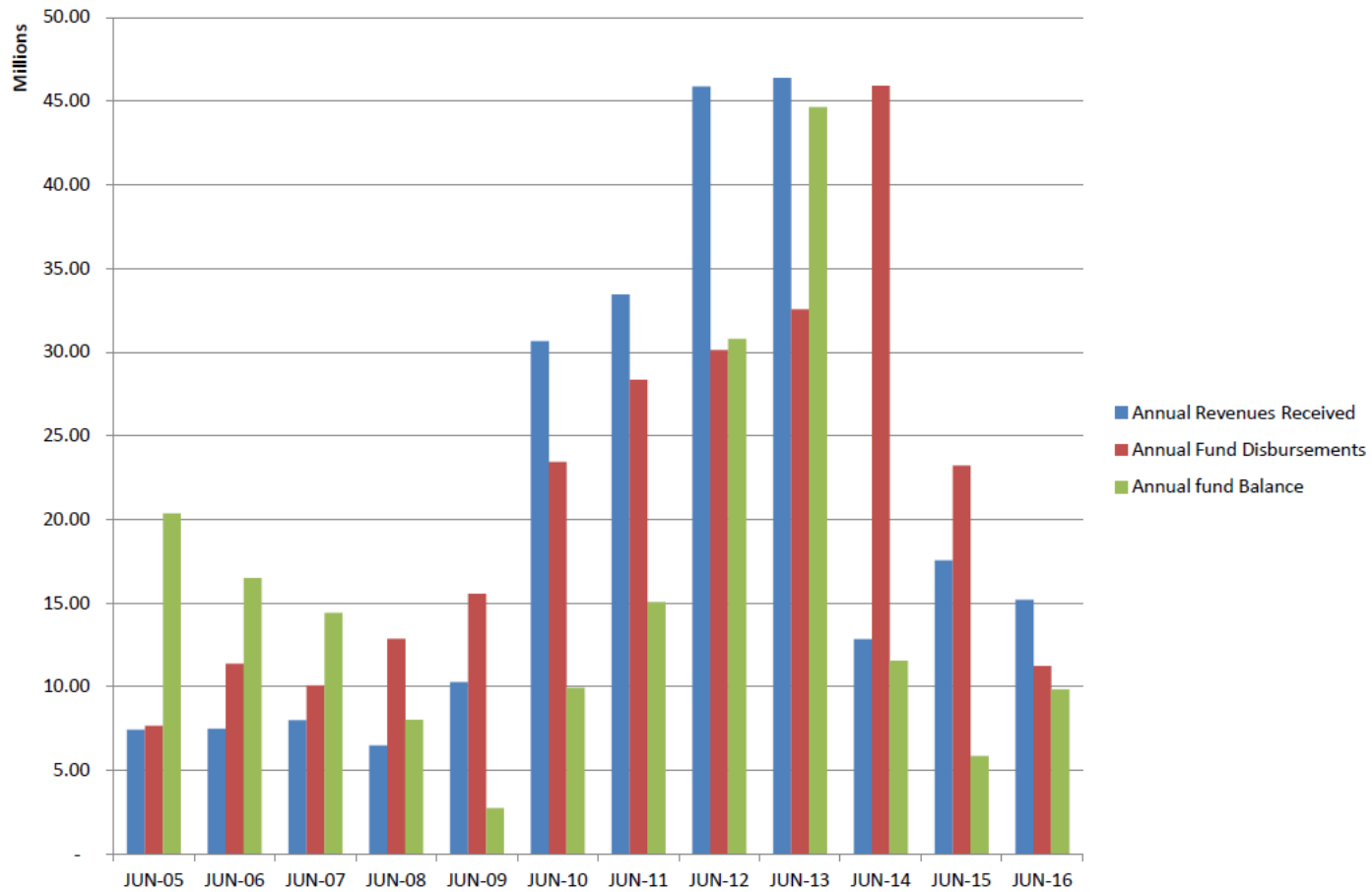
<http://www.occeweb.com/pu/OUSF/OUSFFundingReport2-25-16.pdf> Downloaded 2/28/2016

The OUSF shall be funded by a charge paid by all telecommunications carriers as provided for in Section 7 of this act, at a level sufficient to maintain universal service.

17 O.S. § 139.106 C

Jun-12 and Jun-13 reflect 3.14% contribution factor  
Reduced to 0.64% July 2013 – October 2014  
Increased to 2.16% November 2014 to current

### Oklahoma Corporation Commission Annual Revenue and Disbursement for OUSF



<http://www.occeweb.com/pu/OUSF/OUSFFundingReport2-25-16.pdf>

# OCC Office of General Counsel

## Oklahoma Corporation Commission – Annual Report – FY14

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The Public Utility Section is currently comprised of six attorneys: a Deputy General Counsel, and five Assistants General Counsel

During FY14, the Public Utility Section initiated six rulemakings, all of which were approved by the Governor and Legislature in FY14. The rulemakings related to each area of Public Utility Section: Electric, Gas, Telecom, Water, and Purchases of 100kW or Less. **This was one of the most extensive rulemaking seasons for this section in several years.**

Also during FY14, this section represented PUD IN 315 new causes filed, including 30 Energy and **285 Telecom related applications** and most notably, **a significant increase in OUSF applications - 165 were opened\***

Finally, during FY14 this section represented PUD in closing 254 causes, including 37 Energy and 217 Telecom related matters

As the number of OUSF applications increase and "novel" issues arise in Telecom, opportunities for this section to represent PUD at contested hearings before Administrative Law Judges and Exceptions hearings before the Commission *en banc* also increase

**\* compared to 49 new cases for OUSF in FY13; 19 new cases for OUSF in FY12**

**Oklahoma Corporation Commission**  
**Public Utility Division - Summary Cause Report**  
**January 1, 2016 through January 31, 2016**

<b>PUD SUMMARY</b>	<b>TOTAL</b>
<b>Total Active PUD Causes</b>	<b>306</b>
<b>STRATEGIC PLAN TRACKING</b>	
<b>TOTAL</b>	<b>TOTAL</b>
Total Paper Data Request for report period:	12
Total Electronic Data Request for report period:	10
Paper Submissions (Telecom) for report period:	2
Paper Submissions (Energy) for report period:	10
Electronic Submissions (Telecom) for report period:	4
Electronic Submissions (Energy) for report period:	4
<b>OUSF SUMMARY</b>	
<b>TOTAL</b>	<b>TOTAL</b>
Total Pending OUSF Causes for the report period:	228
Total OUSF within the 90 Day Review Period	91
Total OUSF Pending with ALJ	39
Total OUSF Pending with Commissioners	41
Total OUSF awaiting Order prepared from GCPUD	8
Total OUSF awaiting amended determination from PUD	24
Final Orders issued in current period	18
Total OUSF Lump Sum Requested (accumulative for report period):	\$ 23,490,638.40
Total OUSF Lump Sum Recommended (accumulative for report period):	\$ 1,278,810.11
Total Requested Monthly Recurring (accumulative for report period):	\$ 13,599,363.02
Total Recommended Monthly Recurring (accumulative for this period):	\$ 889,416.14
Total OUSF Payments 2015 to date	\$ 1,484,586.11

5% Recommended lump sum;

7 % recommended monthly

5%	
7%	

**Oklahoma Corporation Commission**  
**Public Utility Division - Summary Cause Report**  
**August 1, 2015 through August 31, 2015**

<b>PUD SUMMARY</b>	<b>TOTAL</b>
<b>Total Active PUD Causes</b>	<b>345</b>
<b>STRATEGIC PLAN TRACKING</b>	
Total Paper Data Request for report period:	16
Total Electronic Data Request for report period:	262
Paper Submissions (Telecom) for report period:	6
Paper Submissions (Energy) for report period:	10
Electronic Submissions (Telecom) for report period:	3
Electronic Submissions (Energy) for report period:	35
<b>OUSF SUMMARY</b>	
Total Pending OUSF Causes for the report period:	253
Total OUSF within the 90 Day Review Period	94
Total OUSF Pending with ALJ	42
Total OUSF Pending with Commissioners	35
Total OUSF awaiting Order prepared from GCPUD	8
Total OUSF awaiting amended determination from PUD	19
Final Orders issued in current period	32
Total OUSF Lump Sum Requested (accumulative for report period):	\$23,381,624.49
Total OUSF Lump Sum Recommended (accumulative for report period):	\$13,757,208.88
Total Requested Monthly Recurring (accumulative for report period):	\$ 1,146,127.57
Total Recommended Monthly Recurring (accumulative for this period):	\$ 735,820.81
Total OUSF Payments 2015 to date	\$16,632,011.30

58.8%  
Recommended  
lump sum;  
64.2 %  
recommended  
monthly



# Approval

## CURRENT LAW

### APPROVAL **AFTER** Service Begins

Reimbursement in filing process up to 18 months after service begins.

Telecom carriers are stuck with unpaid bills and end users with bills they can't pay if OUSF funding not adequate.

Lengthy approval process 24 months or longer.

**Uncertainty and Inconsistency** in funding approvals

## HB 2616

### APPROVAL **BEFORE** Service Begins

Approval of eligible services and credit amounts for the beneficiary before service begins

No unpaid bills for the telecommunications carrier or the beneficiary).

Significant cost savings due to predictable funding process.

**Certainty and Consistency** in funding

# Initiated by OUSF Beneficiary

## CURRENT LAW

### **Service Provider** files with OCC

Service provider is the only “party to the cause”. Files all documentation to the OCC for reimbursement.

Service provider required to submit bidding documentation on behalf of the beneficiary.

Service provider files for reimbursement up to 18 months after services start.

## HB 2616

### **OUSF Beneficiary** Requests Approval

OUSF Beneficiary will submit Approval Request which will replace the Affidavit.

No need to provide bidding documentation if filed properly with the FCC.

Approval Requests submitted January – June PRIOR to the funding year.

PUD 60 days to approve.

Service Provider subsequently files for reimbursement after services begin.

# Funding Year

## CURRENT LAW

**No funding year** – OCC Orders are approved with no end date which creates uncertainty and inconsistency.

OUSF determinations are per Commission Order with no ending date.

## HB 2616

### Funding Year July 1 – June 30

OUSF Approval Requests will be filed by Beneficiary January – June prior to the start of the funding year.

OUSF Approval Letters will be issued within 60 days of receipt of Approval Request.

### Regulatory Certainty

Reporting will change to funding year and compared to FCC funding for same year

# FINANCIAL IMPACT

ADMINISTRATIVE BURDEN –

BY SHIFTING FROM LEGISLATIVE TO  
ADMINISTRATIVE PROCESS

\$700,000 SAVINGS PUD ADMIN

\$1.53 MILLION SAVINGS LITIGATION &  
ADMIN BY SCHOOLS, LIBRARIES,  
HEALTH CARE ENTITIES & CARRIERS

3/1/2016

## Savings to telecom carriers and OUSF Beneficiaries –

Current administrative process – only 7% recommendation for approval

- Denial rate is overloading legal system with over 300 causes; with approximately 25% in reconsideration.
- Significant cost savings will be realized by OUSF beneficiaries and service providers who will not have to incur legal fees for legal filings and litigation
- Savings for the telecom carriers and OUSF Beneficiaries: 700 entities x 25% = 175 entities in litigation x 25 hours x \$350/hour =
- **\$1.53 million in legal fees annually – conservative estimate**

KELLOGG & SOVEREIGN CONSULTING

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# FINANCIAL IMPACT

ADMINISTRATIVE BURDEN –

BY SHIFTING FROM LEGISLATIVE TO  
ADMINISTRATIVE PROCESS

\$700,000 SAVINGS PUD ADMIN

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ADMIN BY SCHOOLS, LIBRARIES,  
HEALTH CARE ENTITIES & CARRIERS

3/1/2016

**Analysis of administrative filing for 700 beneficiaries:**

**500 schools, 100 libraries, 100 health care entities**

**A. 60 day approval process – OUSF beneficiary application submitted to OUSF**

**Review those in compliance with FCC: 2 hours each x 650 = 1300 hours**

**Review FCC form**

**Review eligible entity**

**Confirm contracts are approved**

**Review other applicants not participating in FCC (50): 4 hours each = 200 hours**

**Total OUSF Beneficiary review: 1500 hours / 320 hours (8 work weeks)**

**Need: 4.7 FTEs to complete the reviews in 2 month period. Applications will be  
filed over period of 6 months, so won't actually need this many employees.**

**Conservative Estimate.**

**B. Review of reimbursement requests submitted by Service Providers after  
OUSF Beneficiary approvals completed with automated system :**

**700 requests processed – 1 hour each (very conservative)**

**700 hours to process – if need to process in 60 days: 2.1875 FTE's.**

**10 FTE's instead of current approx. 20 = 50% cost savings**

**\$1.4 million (increase in payroll from 2011 to 2014) x 50% = \$700,000**

# Competitive Bidding

## CURRENT LAW

### Competitive Bidding – **Subject to Analyst**

Competitive bidding for services by rulemaking.

Requires OUSF Beneficiary to provide detailed affidavit with copies of all bids, bid evaluation, contracts signed.

OUSF determines whether or not OUSF Beneficiary made the correct decision.

Reduce or deny OUSF support based on PUD Analyst's opinion

## HB 2616

### Competitive Bidding – **Subject to FCC Filings**

Competitive bidding for services required by statute.

Competitive bidding is met if OUSF Beneficiary participates in FCC program

FCC Programs include: E-Rate or FCC Rural healthcare or Health Care Connect Fund

OUSF Beneficiary's decision is accepted as long as participate (and receive funding ) from FCC program.

# Contributing Providers

## CURRENT LAW

### **Oklahoma contributors**

OUSF funded by telecommunications carriers (wireless and wireline) of Oklahoma.

**No appropriated dollars involved.**

## HB 2616

### **Updated to FCC Contributors**

OUSF funded by Contributing Providers of Oklahoma consistent with FCC decisions.

**No appropriated dollars involved.**

# Telemedicine

## CURRENT LAW

### Telemedicine Eligible Services

Telemedicine is 100% funding of one line as necessary for the telemedicine **equipment**, regardless of rural or urban.

## HB 2616

**Telemedicine** will be funded by federal programs first and remainder by OUSF.

For entities unable to participate in federal programs the health care entity will pay at a maximum 15% for new **bandwidth** requests above their current funding level and in compliance with federal technology standards.

HB 2616: Special Universal Services for telemedicine providers shall include the provision of **bandwidth as recommended by the Federal Communications Commission** sufficient for providing telemedicine services including the telemedicine line, installation, service provider owned equipment and other services necessary to obtain the eligible product or service.



# FINANCIAL IMPACT

TELEMEDICINE SAVINGS

\$17 MILLION ANNUALLY

(2013 Recertification saved \$5 MIL)

TELEMEDICINE SAVINGS BY IMPLEMENTING FCC FILINGS:		
2014 payout report (June 2015):		
# telemedicine providers		90
Monthly Invoices 2014		7,978,974.00
RHC monthly 2014		822,057.00
OUSF monthly 2014		4,858,389.00
Year 2014		58,300,668.00
50% savings		29,150,334.00
30% savings		17,490,200.40

# Schools & Libraries

## CURRENT LAW

### **T-1 or Equivalent – Building Credits**

Schools & Libraries 100% funding of T-1 or equivalent to each building with classrooms or to library.

Career & Technology Center School Districts currently receive OUSF support for high school instruction but are not specifically listed in the current statute.

## HB 2616

### **Bandwidth Required by SETDA / FCC**

funded by OUSF **after federal funding.**

Schools for bandwidth as recommended by State Educational Technology Directors Association (SETDA);

Libraries for bandwidth recommended by federal technology standards.

Career & Tech Center school districts that provide high school instruction are specifically listed as beneficiaries of the funds for clarification to OCC staff in HB 2616.

# HB 2616- Eligible Services for Schools

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Special Universal Services for schools shall include

the provision of bandwidth sufficient for providing educational services per standards established for the relevant funding year by the State Educational Technology Directors Association (SETDA), or successor educational broadband standard, including the Internet Access lines, WAN connections, installation, service provider owned equipment and other services necessary to obtain the eligible product or service. Student counts as reported to the State Department of Education in October of the year prior to the relevant funding year shall be utilized for the purpose of determining SETDA bandwidth recommendations for this title. In absence of standards prescribed for the applicable funding year, the standards for the next prescribed funding year shall be used.

# HB 2616- Eligible Services for Libraries

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Special Universal Services for libraries shall include

the provision of bandwidth sufficient for providing library services per standards established for the relevant funding year per standards as recommended by the Federal Communications Commission including the Internet Access line, installation, service provider owned equipment and other services necessary to obtain the eligible product or service.

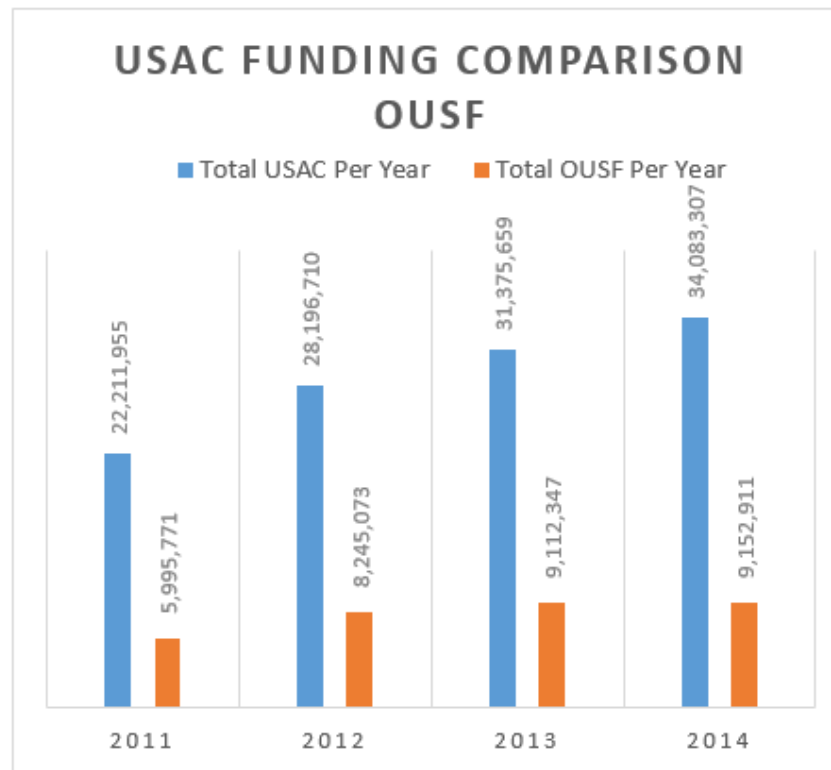
# Schools & Libraries

FCC funding – majority of costs

Oklahoma averages 70% Erate Discount

OUSF funding – only 30%

Compliance with FCC Rules takes precedence over state – conflicts are problematic



# Support HB2616

\$19 MILLION + in cost savings

Regulatory Certainty

Continue to provide needed support for affordable access to:

Health Care Entities

Schools

Libraries

## MODERNIZING OUSF:

- Contributing Providers = Updated to FCC current cases
- Modernize support = Bandwidth for telemedicine, schools & libraries; remove support for toll-free lines, building counts
- Regulatory Certainty=Approval process before funding year begins initiated by OUSF Beneficiary; time periods set for reconsideration
- Reimbursement program = Service provider continues to file for reimbursement; all funds continue to go to provider to ensure funds are used as intended
- Cost control = Competitive Bidding Required; Participation in FCC funding required

# HB 2616



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OKLAHOMA UNIVERSAL SERVICES FUND - MODERNIZATION  
REP. TODD THOMSEN – PASS TO HOUSE 2/24; VOTE BY 3/10

# OUSF Resources

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HELPFUL LINKS – see also [www.kelloggllc.com](http://www.kelloggllc.com)

<http://www.occeweb.com/pu/OUSF/OUSF.htm>

## **Active causes in PUD**

<http://www.occeweb.com/pu/PUD%20Reports%20Page/pudreports.html>

## **Proposed Rules (Chapter 59)**

<http://www.occeweb.com/rules/proprules/proprule.html>

## **Rules (Chapter 59)**

<http://www.occeweb.com/rules/rulestxt.htm>



# Contribution Factor

Inconsistency in Factor

Resulted in loss of funds

\$27,609,576 for 12 months

(Cause PUD 201400341)

LOSS TO FUND BY CF REDUCTIONS:

\$57,424,706

If Factor remained at 3.14% from July 2013-June 2015:  
Additional \$57,424,706 in the fund.

Significant reduction in revenues received and disbursements beginning in Year Ended Jun-15. Reflects reduction in contribution factor and # of requests under reconsideration.			
Year End	Annual Revenues Received	Annual Fund Disbursements	Factor
6/30/2013	46,378,129.91	32,550,614.48	3.14
6/30/2014	12,840,077.14	45,916,624.07	0.64
6/30/2015	17,542,421.87	23,226,276.30	.64 / 2.16
6/30/2016	15,199,089.78	11,226,926.34	2.16
<b>Contribution Factor - PUD changes to contribution factor have negatively affected balance of the fund combined with denials in funding.</b>			
0.64 contribution factor was implemented in July 2013 and continued through October 30, 2014 when the factor was increased to 2.16%.			
The loss in contributions to the fund were \$27,609,576 for 12 months. (See Cause No. PUD 201400341, page 9 of 12)			
PUD recommended increase from 2.16% to 4.77% for FY 2016, however Commission approved keeping factor at 2.16%.			

# OUSF Data 2011-2016 Projections

						updated 4/9/15
PUD #	2011-00002	2012-00005	2013-00002	2014-00001	2014-00001	2014-00341
	6/30/2011	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
S&L	5,995,771	8,245,073	9,112,347	9,152,911	10,034,894	9,451,341
Telemed	17,987,313	24,735,218	27,880,972	24,562,078	24,476,475	46,229,398
Total Special USF	23,983,084	32,980,290	36,993,319	33,714,989	34,511,369	55,680,739
	% Increase	% Increase	% Increase	% Increase	% Increase	% Increase
Year	6/30/2011	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
Contribution Base	1,737,083,556	1,676,538,393	1,543,809,009	1,484,410,006	1,277,283,598	1,156,202,137
Revenue Require	30,315,038	41,706,453	45,451,251	63,662,904	49,809,803	63,733,869
Carryover Balance	(1,025,849)	(10,939,763)	(2,600,806)	54,168,832	22,200,227	13,782,727
Net Rev Require	31,340,887	52,646,216	48,052,057	9,494,072	27,609,576	49,951,142
factor	1.990%	3.140%	3.140%	0.640%	2.16%	4.32%

Year	6/30/2011	6/30/2012	6/30/2013	6/30/2014	6/30/2015	6/30/2016
Revenue Require	30,315,038	41,706,453	45,451,251	63,662,904	49,809,803	63,733,869
Contribution Base	1,737,083,556	1,676,538,393	1,543,809,009	1,484,410,006	1,277,283,598	1,156,202,137

Change in Contribution Base & Revenue Require  
Since 6/30/2011

