

1 **As Amended by House Committee**

2 *Session of 2001*

3
4 **HOUSE BILL No. 2035**

5
6 By Committee on Utilities

7
8 1-11

9
10 AN ACT enacting the KAN-ED act; providing for establishment and
11 maintenance of a broadband technology-based network for certain
12 schools, libraries and hospitals.

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. This act may be cited as the KAN-ED act.

16 Sec. 2. As used in this act, unless the context requires otherwise:

17 (a) "Board" means the KAN-ED board created by section 4, and
18 amendments thereto.

19 (b) "Hospital" means a licensed hospital, as defined in K.S.A. 65-425,
20 and amendments thereto.

21 (c) "Library" means: (1) The state library; (2) any public library es-
22 tablished and operating under the laws of this state; **or** (3) any regional
23 system of cooperating libraries, as defined in K.S.A. 75-2548, and amend-
24 ments thereto; ~~or (4) any library of a nonpublic post secondary educa-~~
25 ~~tional institution participating in the library research network adminis-~~
26 ~~tered by the state library.~~

27 (d) "Network" means the KAN-ED network created pursuant to this
28 act.

29 (e) "School" means: (1) Any unified school district, school district
30 interlocal cooperative, school district cooperative or nonpublic school ac-
31 credited by the state board of education; or (2) any community college,
32 technical college, area vocational school, area vocational-technical school
33 or ~~state educational institution, as defined in K.S.A. 72-4412~~ **Kansas ed-**
34 **ucational institution, as defined in K.S.A. 2000 Supp. 74-32,120,**
35 and amendments thereto.

36 Sec. 3. (a) There is hereby created a body politic and corporate to
37 be known as KAN-ED. KAN-ED is hereby constituted a public instru-
38 mentality and the exercise of the authority and powers conferred by this
39 act shall be deemed and held to be the performance of an essential gov-
40 ernmental function.

41 (b) The purpose of KAN-ED shall be to contract for the creation,
42 operation and maintenance of a broadband technology-based network to
43 which schools, libraries and hospitals may connect for broadband internet

1 access and intranet access for distance learning. Connection of schools
2 and libraries to the network shall commence not later than July 1, 2002.
3 Connection of hospitals shall commence not later than July 1, 2003.

4 (c) KAN-ED shall not provide for: (1) Impairment of any existing
5 contract for the provision of telecommunications services or internet serv-
6 ices to any school, library or hospital; (2) state ownership or construction
7 of any network facilities other than those owned or being constructed by
8 the state on the effective date of this act; or (3) use of the network for
9 purposes inconsistent with the purposes of this act.

10 Sec. 4. (a) KAN-ED shall be governed by the KAN-ED board. The
11 board shall consist of the following members: (1) The commissioner of
12 education or the commissioner's designee; (2) the state librarian or the
13 state librarian's designee; (3) the chief executive officer of the state board
14 of regents or the chief executive officer's designee; (4) the chief infor-
15 mation technology architect or the chief information technology archi-
16 tect's designee; (5) three residents of the state appointed by the governor,
17 subject to confirmation by the senate as provided by K.S.A. 75-4315b,
18 and amendments thereto, to represent the telecommunications and cable
19 communications industries; (6) one resident of the state appointed by the
20 governor, subject to confirmation by the senate as provided by K.S.A. 75-
21 4315b, and amendments thereto, to represent hospitals; and (7) one res-
22 ident of the state appointed by the governor, subject to confirmation by
23 the senate as provided by K.S.A. 75-4315b, and amendments thereto, to
24 represent elementary and secondary education. Except as provided by
25 K.S.A. 46-2601, and amendments thereto, no member of the board whose
26 appointment is subject to confirmation by the senate shall exercise any
27 power, duty or function as a member of the board until confirmed.

28 (b) Terms of members appointed to the board shall be three years
29 except that:

30 (1) Of members first appointed to the board, one shall be appointed
31 for a term ending January 15 of the second year following appointment,
32 two shall be appointed for terms ending January 15 of the third year
33 following appointment and two shall be appointed for terms ending Jan-
34 uary 15 of the fourth year following appointment. Thereafter, each mem-
35 ber shall be appointed for a term ending three years after the expiration
36 of the term of the member's predecessor.

37 (2) If a vacancy on the board occurs for a reason other than expiration
38 of a term, the vacancy shall be filled by the governor in the manner
39 provided for original appointments for the remainder of the unexpired
40 term.

41 (3) Members shall serve until a successor has been appointed and
42 confirmed.

43 (c) Members appointed to the board shall receive amounts provided

1 for in subsection (e) of K.S.A. 75-3223, and amendments thereto.

2 Sec. 5. (a) The board shall elect annually one member as chairperson
3 and one member as vice-chairperson.

4 (b) The board shall meet at least once during each calendar quarter,
5 and at such other times as may be provided in the rules of the board,
6 upon call of the chief executive officer or the chairperson or upon written
7 request of a majority of the members of the board.

8 (c) A majority of the members of the board shall constitute a quorum
9 for transaction of the business of the board and all actions of the board
10 shall be by a majority of a quorum.

11 Sec. 6. (a) The board shall establish a plan to ensure that all schools,
12 libraries and hospitals have quality, affordable access to the internet and
13 distance learning and shall adopt standards for determining whether such
14 access is available to each school, library or hospital desiring such access.
15 The board may request and receive assistance from any school, any li-
16 brary, any hospital, the state corporation commission, **any other agency**
17 **of the state** or any telecommunications or cable services provider to
18 gather necessary data to implement such plan and establish such stan-
19 dards. The board shall develop a methodology for updating and validating
20 any data collected for periodic revisions of the plan and standards.

21 (b) The board shall contract with providers of telecommunications
22 services, cable services and other communications services for the crea-
23 tion, operation and maintenance of the KAN-ED network. Contracts en-
24 tered into by the board shall not be subject to the provisions of K.S.A.
25 75-4701 et seq., or K.S.A. 2000 Supp. 75-7201 et seq., and amendments
26 thereto, but the creation, operation and maintenance of the network shall
27 conform to the information technology architecture adopted by the in-
28 formation technology executive council pursuant to K.S.A. 2000 Supp.
29 75-7203, and amendments thereto.

30 (c) Subject to the provisions of subsection (b), the board shall estab-
31 lish: (1) Technical standards for operation and maintenance of the net-
32 work; (2) the method of monitoring operations of the network; and (3)
33 the method or methods of increasing the capacity of the network to ac-
34 commodate changes in the demands of schools, libraries and hospitals.

35 (d) The board shall identify any potential regulatory impediments to
36 and other regulatory considerations in implementation of the network and
37 shall propose measures to address such impediments and other
38 considerations.

39 (e) The board shall assess the need of schools, libraries and hospitals
40 for full-motion video connectivity. Based on its findings, the board may
41 develop a plan to provide such connectivity. The plan may require users
42 of such connectivity bear part of its cost.

43 (f) The board shall appoint the following advisory committees: (1) An

1 advisory committee to make recommendations to the board concerning
2 technical matters related to network facilities and network services; and
3 (2) an advisory committee to make recommendations to the board con-
4 cerning matters relating to content to be carried on the network and
5 training of users of the network. The board may appoint such other ad-
6 visory committees as the board determines necessary to carry out the
7 purposes of this act. The membership of advisory committees may include
8 both members of the board and persons who are not board members.
9 Members of advisory committees appointed by the board shall receive
10 amounts provided for in subsection (e) of K.S.A. 75-3223, and amend-
11 ments thereto.

12 (g) The board shall have all other powers necessary to achieve the
13 purposes of this act, including but not limited to the power to receive any
14 appropriations, donations, grants, bequests and devises, conditional and
15 otherwise, of money, property, services or other things of value for the
16 purposes of this act.

17 (h) The state department of education, the division of information
18 systems and communications of the department of administration, the
19 state corporation commission and all other state agencies shall cooperate
20 with the board in providing information and other assistance requested
21 by the board for the performance of its duties.

22 (i) Public records of KAN-ED shall be subject to the open records
23 act and meetings of the board shall be subject to the open meetings act.

24 Sec. 7. (a) The board, subject to approval of the governor, shall em-
25 ploy a chief executive officer who shall serve at the pleasure of the board.
26 The chief executive officer's salary shall be set by the board. The board
27 may negotiate and enter into an employment contract with the individual
28 selected as chief executive officer. The contract may provide for such
29 compensation and such provisions for allowances, benefits and expenses
30 as may be included in the contract. The board is authorized to make all
31 payments and payroll deductions as may be required under the contract.

32 (b) The chief executive officer shall:

33 (1) Direct and supervise the administrative affairs and general man-
34 agement of the board;

35 (2) employ and terminate such other officers and employees directed
36 by the board;

37 (3) attend board meetings;

38 (4) appoint a secretary to keep a record of all proceedings and main-
39 tain and be custodian of the minutes of the board and all financial and
40 operational records, documents and papers filed with the board; and

41 (5) perform such other duties as directed by the board to carry out
42 the purposes of this act.

43 (c) The chief executive officer and all other officers and employees

1 of KAN-ED shall be in the unclassified service under the Kansas civil
2 service act. Any officer or employee of KAN-ED who receives a salary
3 allocated from state funds shall receive no other compensation.

4 (d) Except as provided in subsection (c) of section 4, and amend-
5 ments thereto, for members of the board, the provisions of article 32 of
6 chapter 75 of the Kansas Statutes Annotated, any acts amendatory thereof
7 or supplemental thereto and any rules and regulations adopted there-
8 under, shall not apply to officers or employees of KAN-ED. Subject to
9 policies established by the board, the chief executive officer of the board
10 or such officer's designee shall be authorized to approve all travel and
11 travel expenses of such officers and employees.

12 Sec. 8. (a) There is hereby created in the state treasury the KAN-
13 ED fund. The board may credit the fund with unrestricted appropri-
14 ations, gifts, donations or grants received from any source.

15 (b) Moneys in the KAN-ED fund shall be expended only for the
16 purposes of this act.

17 (c) On or before the 10th of each month, the director of accounts
18 and reports shall transfer from the state general fund to the KAN-ED
19 fund interest earnings based on:

20 (1) The average daily balance of moneys in the fund for the preceding
21 month; and

22 (2) the net earnings rate for the pooled money investment portfolio
23 for the preceding month.

24 (d) All expenditures from the KAN-ED fund shall be made in ac-
25 cordance with appropriation acts upon warrants of the director of ac-
26 counts and reports issued pursuant to vouchers approved by the chair-
27 person of the board or the chairperson's designee for the purposes set
28 forth in this section.

29 Sec. 9. (a) On or before January 15 of each year, the board shall
30 publish an annual report. and shall present the report to the legislature,
31 governor and department of education. The report shall include an audit
32 in accordance with generally accepted accounting principles as of June
33 30 of each year and shall set forth in detail the operations and transactions
34 conducted by the board pursuant to this act. The annual report shall
35 specifically account for the ways in which the purpose of the board have
36 been carried out, and the recommendations shall specifically note what
37 changes in the activities of the board and state government are necessary
38 to better address the purposes described in this act.

39 (b) The board shall recommend annually an appropriate funding level
40 to address the purposes of this act. The board's findings and recommen-
41 dations shall be submitted to the governor and the legislature.

42 (c) The board shall be subject to an audit by the legislative division
43 of post audit.

1 Sec. 10. If any provision of this act or the application thereof to any
2 person or circumstances is held invalid, the invalidity shall not affect other
3 provisions or applications of the act which can be given effect without
4 the invalid provision or application. To this end the provisions of this act
5 are severable.

6 Sec. 11. This act shall take effect and be in force from and after its
7 publication in the Kansas register.

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