

Approved: April 29, 2005  
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Nick Jordan at 8:07 A.M. on March 23, 2005 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Susan Kannarr, Kansas Legislative Research Department  
Kathie Sparks, Kansas Legislative Research Department  
Helen Pedigo, Revisor of Statutes  
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Steve Weatherford, KDFFA  
Hal Gardner, Executive Director KAN-ED  
Eldon Rightmeier, Director Tech Operations  
Dr. Mel Chastain, Kansas State University  
Fred Atchison, Libraries in Kansas  
Carol Woolbright, Greenbush Service Center  
Jennifer Findley, Kansas Hospital Association  
Dale White, Kansas Hospital Association  
Jim Edwards, Kansas Association of School Boards  
Sandy Braden, Cingular Wireless  
Chris Bramhall for Noah Wood, Nuvio  
Dina Fisk, Verizon Wireless  
Jim Gartner, Southwestern Bell  
Linda Langston, Cox Communications  
John Frederico, KCTA

Others attending:

See attached list.

Chairperson Jordan opened the meeting by stating the Committee needed to continue working **HB 2144**. The Chair introduced Steve Weatherford, KDFFA, to explain the \$310 million lid on the STAR bonds for Wyandotte County and address the issue of why it was presented in the Post Audit Amendment. Mr. Weatherford explained the importance of refunding a bond issue and lowering the interest rate. He stated with STAR Bonds the state is allowing the state sales tax to pay the debt service on the bonds. The state is paying both the interest and the principal out of the state sales tax. The state is in a similar situation the county is in so we want them to refund and lower that interest rate because it will take less of our sales tax to pay those bonds off. The problem with the cap is the county has \$284 million in outstanding debt. Under normal circumstances all those costs are customarily allowed to be paid out of bond proceeds so that would cause an increase of the outstanding bonds issued to refund the original debt. The cap set in the House and the cap which was discussed in Committee yesterday is lower than what they would anticipate is needed to refund that outstanding debt.

Upon conclusion of Mr. Weatherford's explanation there was a discussion with the Committee regarding the cap. Senator Wylson was concerned with what the original reserve was. Mr. Weatherford stated he was not privy to any of the details of financing of the Unified Government. Matt Jordan was recognized and he introduced a representative of the Unified Government, Mike Taylor. Mr. Taylor stated he did not know what the original reserve was but could make a call and get that information for the Committee. He also stated there would be a savings in refinancing and each developer had his own bonds now. He stated the savings in refunding the bonds would be in the \$100 millions and that STAR bonds would be paying for the fees. The number of bonds issued to date is \$298 million. The discussion continued with reference to the Table in the Post Audit for December of 2004 which does not reflect \$290 in bonds. The Committee raised the issue that it looked like \$60 million had been issued in bonds from December until now. Mr. Taylor stated he was not sure about that but his supervisor had informed him as of this date was \$298 had been issued in bonds. Senator Barone addressed the Chair asking to have the discrepancy reconciled in order for them to know exactly where they were at. The Committee had confidence in the Post Audit and felt it was very accurate

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and reliable. Chairperson Jordan recognized Matt Jordan, Department of Commerce who offered an amendment idea which would be conceptional at this point, regarding the cap and refunding of bonds. Mr. Jordan explained. (Attachment 1)

Chairperson Jordan recognized Senator Brownlee. She stated she understood the value of refunding and since the Unified Government had remaining bond authority, they could fund any costs in the refunding of bonds out of these fees.

Senator Brownlee stated the amendment for **HB 2144** wasn't written quite right and she wanted to explain what she was trying to do. (Attachment 2) Senator Brownlee made a motion to accept the amendment including a \$304 million cap and any draws or activity to be approved by Secretary of the Department Revenue and the Secretary of the Department of Commerce. Senator Reitz seconded

A discussion followed. Senator Wysong stated he felt it should go to a Conference Committee and that we should have a bond counselor to advise the conferees. Chairperson Jordan stated this bill will go to a Conference Committee.

Chairperson Jordan called for a vote on the motion. Motion carried with Senator Wysong voting no.

Senator Barone stated he supported the motion but if he gets new information before the day is over from Post Audit he may come forward with an amendment on the Senate floor to adjust the cap.

Chairperson Jordan recognized Senator Brownlee once again to continue with the review of the balloon. She called the Committee's attention to Page 11 of balloon and explained the amendment in the box to the Committee. She stated she has concerns if someone has a project they need to put some of their monies in the project and not depend solely on the state bonds. Chairperson Jordan assured the Committee he was concerned about projects starting under the \$50 million threshold and stated these concerns would be addressed in the Committee this summer. At this time he would rather the decision be left to the Secretary of Commerce. He stated that the owner of Heartland Park had invested \$3 million of his own money. Senator Brownlee stated she understood he had invested money but not in the new project. Two issues that prompt the need for the amendment to limit the STAR bond eligible amount to 50% of the project amount are:(1 Heartland Park does not pay property taxes because the land is owned by the city; and 2) the property is currently generating sales tax which would be diverted to pay off STAR bonds. Typically STAR bond projects are paid for with new sales tax only.

Senator Brownlee made a motion to amend page 11. Senator Barone seconded.

A discussion follow the motion. Senator Barone has concerns using existing tax dollars to finance STAR Bonds. Senator Kelly stated the Heartland Park project would be threatened if they pass the Brownlee amendment on page 11. She doesn't necessarily think the amendment on page 11 is a bad idea, she would like more time to consider.

Chairperson Jordan called for a vote on the motion. Votes were 3 for and 4 against with Senator Wysong passing. The motion did not carry.

Senator Brownlee continued through the amendment moving to page 5 with an explanation. Senator Brownlee made a motion to accept the amendment on page 5. Senator Emler seconded. Motion carried.

Senator Brownlee moved to page 13 & 21 and explained. Senator Brownlee made a motion to accept amendment on pages 13, 21 and 22. Senator Emler seconded. Motion carried.

The explanation by Senator Brownlee continued to page 26 and the amendment removing post audit from doing the annual audit and having the cities provide the annual audit done by an independent CPA. Senator Brownlee then made the motion to accept the amendment and Senator Reitz seconded. A discussion followed.

In the discussion it was determined the cities would have to pay whether it was done by Post Audit or the

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cities hiring a CPA. The Committee discussed the advantages of having the audit done by Post Audit or by and independent CPA. Senator Emler wondered if Post Audit would sub out the audit. Senator Jordan stated they could sub out the audit.

Upon completion of the discussion Chairperson Jordan called for the vote. The motion carried after a show of hands. Four voting for and Senator Wagle, Senator Barone and Senator Kelly voting against with Senator Wysong passing.

Chairperson Jordan recognized Senator Kelly. Senator Kelly made a motion to accept amendment from the Department of Commerce (Attachment 3) giving the Department of Commerce the ability to negotiate the contract on workforce training. Senator Reitz seconded. Motion carried.

Senator Reitz made the motion to adopt a substitute bill for HB 2144 and move it out favorably. Senator Schodorf seconded. The motion carried.

Chairperson Jordan turned the Chair over to Senator Brownlee. She opened the hearing on **HB 2026** by asking if Representative Jason Watkins was present. Representative Watkins was not in attendance, therefore, Chairperson Brownlee referred the Committee to the amendment he offered to **HB 2026**. (Attachment 4)

Chairperson Brownlee introduced Hal Gardner, Executive Director Kan-ed. Mr. Gardner offered written testimony. (Attachment 5) He provided an accounting of Kan-ed activities from Aug 2004 to the present. Kan-ed strongly recommended the re-authorization of KAN-ed's source of funding so that they can provide rigorous, ongoing efforts over the next five years. During that same time Kan-ed staff, and their many volunteers and consultants will be working to identify and develop other stable funding models for Kan-ed to build upon. Upon the conclusion of Mr. Gardner's testimony he introduced Eldon Rightmeier, Director of Technical Operations and Planning for Kan-ed to give his testimony.

Mr. Rightmeier offered written testimony. (Included in Attachment 5) Mr. Rightmeier provided information regarding the deployment of the Kan-ed private network. He stated that at the present time, Kan-ed partners with approximately twenty Kansas companies, either directly through contracts or indirectly through industry initiated cooperation. The Kan-ed network is completely leased though these Kansas telecom providers and has Network Access Points in all areas of the state. In closing he stated Kan-ed is working with multiple Kansas hospitals to deploy tele-medicine and tele-radiology applications. Kan-ed is looking at refinements and upgrades for the scheduling process associated with Distance Learning. They are also looking to enhance scheduling for mobile classrooms and interstate access applications. A new product, Marratech, for desktop video collaboration is also under review with a recommendation scheduled by mid-year 2005.

Chairperson Brownlee introduced Mel Chastain, Ph.D. Kansas Regents Educational Communications Center, Kansas State University. Dr. Chastain offered written testimony (Attachment 6) Dr. Chastain stated the Kan-ed network allows opportunities to rural and isolated schools, libraries and hospitals, as well as the entire state, that would not be possible without the Kan-ed network.

Chairperson Brownlee introduced Fred Atchison, Jr., Director of the North Central Kansas Libraries System and the Manhattan Public Library. Mr. Atchison offered written testimony. (Attachment 7). Mr. Atchison stated the development of the Kan-ed Network represents a huge opportunity to take resource sharing and collaboration to a level that a few years ago we could only dream about. Libraries have benefitted from KAN-ed through subsidies used to help pay for high-speed Internet connections. This enabled small communities to move from a slow dial-up to a fast DSL connection. Some of these libraries were able to offer access to the Internet for the first time. All libraries from Johnson County to Hope, Kansas have received access to databases provided by Kan-ed. The many databases are allowing students access to information they would not have without the Kan-ed Network. In closing, Mr. Atchison urged the Committee to support the full re-authorization of Kan-ed and to maintain a stable source of funding that will make it possible for our work to continue.

Chairperson Brownlee introduced Carol Woolbright, Director, Greenbush Interactive Distance Learning Network at the Southeast Kansas Education Service Center, Girard. Ms. Woolbright offer written testimony.

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(Attachment 8) She stated that during a regular school day, thousands of students take high school and college classes over the distance learning network in Kansas. Kan-ed has had a significant impact that our statewide network with the K-12 distance learning in Kansas. The Greenbush Interactive Distance Learning Network provides educational opportunities for more than 15,000 Kansas students each year in classes, enrichment, and videoconferencing programs. They have just begun to explore the kinds of educational innovation that can be accomplished for Kansas kids across the state using Kan-ed resources. In closing Ms. Woolbright stated there is a need to establish a statewide comprehensive plan to organize, plan, promote, and support distance learning for all learning so all Kansas students have educational opportunities that allow them to prepare for their futures and grasp their dreams. She is in support of the re-authorization of funding for Kan-ed, **HB 2026**.

Due to the lack of time, Jennifer Findley, Kansas Hospital Association offered her testimony as written only (Attachment 9) and Chairperson Brownlee introduced Dale White, Kansas Hospital Association to give his testimony. Mr. White offered written testimony (Attachment 10) Mr. White stated the Kansas Hospital Association was in support of **HB 2026**. He stated hospitals of all sizes have enjoyed many benefits from their participation in Kan-ed. Mr. White stated the Kansas Hospital Association urges the Committee to support HB 2026 not just for what Kan-ed has already provided to Kansas hospital, but equally important for the potential that exists for future services. The Medicare Modernization Act, the Governor's Healthy Kansas Initiative, the Leapfrog Initiative and many others have all focused on increased use of technology as a key factor to decreasing costs and increasing the quality and safety of health care delivery system.

Chairperson Brownlee introduced Jim Edwards, Kansas Association of School Boards. Mr. Edwards offered written testimony. (Attachment 11) He stated that Kan-ed has provided students and teachers access to education's most comprehensive suite of instructional programs, software content, and professional development programs; is providing access to thousands of citations and many full-text articles in scholarly journals, business and trade journals, and other news sources; and provides a technological infrastructure to extend the work with kids that suffer from a chronic illness. In closing Mr. Edwards stated Kan-ed is offering opportunities to students which would not be available without Kan-ed and expressed the support of the Kansas Association of School Boards for **HB 2026**.

Following the conclusion of Mr. Edwards testimony, Senator Emler was recognized with a question for Mr. Edwards. Senator Emler wanted to know if any of the hospitals utilizing the Kan-ed network were for profit hospitals. Mr. Edwards stated "no".

Chairperson Brownlee introduced Sandy Braden, Cingular Wireless. Ms. Braden offered her testimony as written only. (Attachment 12)

Chairperson Brownlee introduced Chris Bramhall to present the written testimony of Jason P. Tally, CEO, Nuvio Corporation, as an opponent of **HB 2026**. (Attachment 13) Mr. Bramhaul stated the problem that Nuvio has with **HB 2026** is the 911 VOIP language. With this language it is not possible to do with the current technology in this field. If this language stays in this bill then Novio will be forced to cease doing business in Kansas.

Chairperson Brownlee introduced Dina Fisk, Verizon Wireless. Ms. Fisk offered written testimony. (Attachment 14). Ms. Fisk stated Verizon Wireless recognizes the Kan-ed program is an important initiative for Kansas schools, hospitals and libraries. The problem is the way it is funded. They are concerned that the diversion of funds to Kan-ed will encourage other social programs to likewise seek KUSF funding in the future. Ms. Fisk offered an amendment to **HB 2026** with her written testimony. In closing Mrs. Fisk stated Verizon Wireless is committed to defending the best interests of their wireless customers. Shifting the KUSF funding of Kan-ed to the state's general revenue fund over the next three years ensures the continued existence of this important program while providing a fairer funding mechanism and correcting the obligation that has been placed on wireless and land line phone customers.

Chairperson Brownlee introduced Jim Gartner, Southwestern Bell Communications. Mr. Gartner offered written testimony (Attachment 15) Mr. Gartner stated SBC has concerns with Section 3 of **HB 2026**, dealing with E911 functionality with Voice over Internet Protocol (VOIP) services. VOIP is a promising new technology. The industry needs to be given the opportunity to collectively develop solutions for E911. Kansas

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should follow the FCC's lead regarding regulation of VOIP and other new technologies.

Chairperson Brownlee introduced John Federico testifying as a neutral in regard to HB 2026, on behalf of the Kansas Cable Telecommunications Association. Mr. Federico offered written testimony along with an amendment attached. (Attachment 16) Mr. Federico stated that the Kansas Cable Telecommunications Association has a concern with Section 3 of HB 2026 and therefore offered an amendment.

Chairperson Brownlee recognized Linda Langston, Cox Communications. Ms. Langston stated she agrees with Mr. Federico and stands behind the amendment he offers.

Chairperson Brownlee asked if section 3 was removed from the bill, would Cox Communications and KCTA be happy with **HB 2026**. The answer was "yes".

With no other testimonies to be given and no further question Chairperson Brownlee closed the hearing on **HB 2026** and addressed the Committee telling them the bill was blessed but she would like to work it later this week. She stated she has an amendment to offer on **HB 2026**.

The Committee discussed section 3 of the bill. Senator Emler made a motion to remove section 3 of HB 2026. Senator Schodorf seconded. Motion carried.

The meeting was adjourned at 9:30 a.m. with the next meeting to be announced.



Dept of Commerce

Revise balloon in Section 3 of Substitute for House Bill 2012 (amending K.S.A. 12-1771b) on line 33 of page 12 to read as follows:

**The maximum principal amount of bonds issued to fund projects within a major tourism area, including any such additional area, shall not exceed \$\_\_\_\_\_; provided that any bonds issued for the purpose of refunding, either at maturity or in advance of maturity, such bonds pursuant to the provisions of K.S.A. 10-116a and bonds issued solely to fund reserve funds for such refunding bonds shall not be counted toward such limit on the principal amount.**

*Explanation:*

This amendment avoids double-counting refinanced indebtedness and counting bonds which fund required reserve funds. A similar refunding provision appears in K.S.A. 68-2328, the refunding section of the KDOT Comprehensive Highway/Transportation law.

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Attachment 1-1

As Amended by House Committee

Session of 2005

**HOUSE BILL No. 2144**

By Committee on Economic Development

1-25

PROPOSED AMENDMENT  
SENATE COMMERCE COMMITTEE  
March 23, 2005

10 AN ACT regarding economic development; relating to tax increment fi-  
11 nancing and a motorsports complex; amending K.S.A. 2004 Supp. 12-  
12 1770a and, 12-1774, 12-1780b and 12-1780c and repealing the ex-  
13 isting sections.

12-1774a and 12-1777 and K.S.A.

12-1771, 12-1771b, 12-1772, 12-1773,

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

16 Section 1. K.S.A. 2004 Supp. 12-1770a is hereby amended to read  
17 as follows: 12-1770a. As used in the bioscience development act, and  
18 amendments thereto, the following words and phrases shall have the fol-  
19 lowing meanings unless a different meaning clearly appears from the  
20 content:

21 (a) "Auto race track facility" means: (1) An auto race track facility and  
22 facilities directly related and necessary to the operation of an auto race  
23 track facility, including, but not limited to, grandstands, suites and viewing  
24 areas, concessions, souvenir facilities, catering facilities, visitor and retail  
25 centers, signage and temporary hospitality facilities, but excluding (2) ho-  
26 tels, motels, restaurants and retail facilities, not directly related to or nec-  
27 essary to the operation of such facility.

28 (b) "Base year assessed valuation" means the assessed valuation of all  
29 real property within the boundaries of a redevelopment district on the  
30 date the redevelopment district was established.

31 (c) "Blighted area" means an area which:

32 (1) Because of the presence of a majority of the following factors,  
33 substantially impairs or arrests the development and growth of the mu-  
34 nicipality or constitutes an economic or social liability or is a menace to  
35 the public health, safety, morals or welfare in its present condition and  
36 use:

37 (A) A substantial number of deteriorated or deteriorating structures;

38 (B) predominance of defective or inadequate street layout;

39 (C) unsanitary or unsafe conditions;

40 (D) deterioration of site improvements;

41 (E) tax or special assessment delinquency exceeding the fair market  
42 value of the real property;

43 (F) defective or unusual conditions of title including but not limited

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1 this act may refund all or part of such issue pursuant to the provisions of  
2 K.S.A. 10-116a, and amendments thereto.

3 (c) Any increment in ad valorem property taxes resulting from a re-  
4 development project in the established redevelopment district under-  
5 taken in accordance with the provisions of this act, shall be apportioned  
6 to a special fund for the payment of the redevelopment project costs,  
7 including the payment of principal and interest on any special obligation  
8 bonds or full faith and credit tax increment bonds issued to finance such  
9 project pursuant to this act and may be pledged to the payment of prin-  
10 cipal and interest on such bonds.

11 (d) For each project financed pursuant to subsection (a)(1)(D), the  
12 city shall prepare and submit annually to the governor, the secretary of  
13 commerce, Kansas, Inc. and the legislature by October 1 of each year, a  
14 report describing the status of any projects within such redevelopment  
15 area.

16 **Sec. 3. K.S.A. 2004 Supp. 12-1780b is hereby amended to read**  
17 **as follows: 12-1780b. (a) The governing body of a city may establish**  
18 **one or more special bond projects or major motorsports complexes in**  
19 **any area within such city or wholly outside the boundaries of such**  
20 **city. A special bond project or major motorsports complex wholly out-**  
21 **side the boundaries of such city must be approved by the board of**  
22 **county commissioners through county resolution. The special**  
23 **bond projects or major motorsports complexes shall be eligible for**  
24 **financing by special obligation bonds payable from revenues de-**  
25 **scribed by subsection (a)(1)(D) of K.S.A. 12-1774, and amendments**  
26 **thereto. Each special bond project or major motorsports complex**  
27 **shall first be approved by the secretary, if the secretary determines**  
28 **that the proposed project or complex sufficiently promotes, stimu-**  
29 **lates and develops the general and economic welfare of the state**  
30 **as described in K.S.A. 12-1770. The secretary may approve a spe-**  
31 **cial bond project or major motorsports complex located in a redevel-**  
32 **opment district established by a city prior to the effective date of**  
33 **this act. A special bond project or major motorsports complex shall**  
34 **not be granted to any business that proposes to relocate its busi-**  
35 **ness from another area of the state into such city, for the purpose**  
36 **of consideration for a special bond project or major motorsports com-**  
37 **plex and shall not receive any of the benefits provided by K.S.A.**  
38 **12-1770 et seq., and amendments thereto. A special bond project or**  
39 **major motorsports complex shall not be approved by the secretary if**  
40 **the marketing study required by K.S.A. 2004 Supp. 12-1780c, and**  
41 **amendments thereto, indicates a substantial negative impact upon**  
42 **businesses in the project or complex market area or the granting of**  
43 **such project or complex would cause a default in the payment of**

For a city proposing to finance a major motorsports complex pursuant to subsection (a)(1)(D) of K.S.A. 12-1774, and amendments thereto, the secretary of commerce, upon approving the project, may approve such financing in an amount not to exceed one-half of the total cost of the project.

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1 thereto.

2 (e) *Posthearing procedure.* Following the public hearing, the gov-  
3 erning body may adopt the project plan by ordinance passed upon  
4 a 2/3 vote.

5 (f) Any substantial changes as defined in K.S.A. 12-1770a, and  
6 amendments thereto, to the project plan as adopted shall be sub-  
7 ject to a public hearing following publication of notice thereof at  
8 least twice in the official city newspaper.

9 (g) Any project shall be completed within 20 years from the  
10 date of the approval of the project plan. Kansas resident employees  
11 shall be given priority consideration for employment in construc-  
12 tion projects located in a special bond project or major motorsports  
13 complex area.

14 (h) Any developer of a special bond project or major motorsports  
15 complex shall commence work on such project or complex within two  
16 years from the date of adoption of the project plan. Should the  
17 developer fail to commence work on the special bond project or  
18 major motorsports complex within the two-year period, funding for  
19 such project or complex shall cease and the developer of such pro-  
20 ject or complex shall have one year to appeal to the secretary for  
21 reapproval of such project or complex and the funding for it. Should  
22 the project or complex be reapproved, the two-year period for com-  
23 mencement shall apply.

24 (i) The provisions of this act regarding special bond projects  
25 and major motorsports complexes shall expire on and after July 1,  
26 2007.

27 Sec. 3.5. K.S.A. 2004 Supp. 12-1770a and 12-1774, 12-1780b and  
28 12-1780c are hereby repealed.

29 Sec. 4.6. This act shall take effect and be in force from and after its  
30 publication in the statute book.

Insert Subst. for HB 2012, Sec. 2,3,4,5,7,8,11 and 12 here.  
Renumber the remaining sections.

12-1774a and 12-1777 and K.S.A.

12-1771, 12-1771b, 12-1772, 12-1773,

Sec. 1. K.S.A. 2004 Supp. 75-5735 is hereby amended to read as follows: 75-5735. Subject to the approval of the governor, the secretary of ~~labor~~ commerce is authorized to contract with federal government agencies, governmental entities of any state, and private not-for-profit corporations for the performance of data processing services and training.

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STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend HB 2026, as amended by House Committee, on page 3, in line 7, by striking "the following" and inserting "\$10,000,000"; by striking all in lines 9 through 11 and inserting "in fiscal year 2006."; in line 13, by striking "2010" and inserting "2006 unless extended by a <sup>majority</sup> vote of ~~2/3~~ of the members of the house of representatives and a <sup>majority</sup> vote of ~~2/3~~ of the members of the senate"; in line 25, by striking all after "in"; in line 26, by striking all before "shall" and inserting "the year 2006"

\_\_\_\_\_  
\_\_\_\_\_  
District.

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Attachment 4-1



# KANSAS BOARD OF REGENTS

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**Testimony Regarding HB 2026  
Senate Commerce Committee  
March 23, 2005  
Hal Gardner  
Executive Director, Kan-ed  
Kansas Board of Regents**

Good morning Chairwoman Brownlee and members of the committee. My name is Hal Gardner and I am Executive Director of Kan-ed at the Kansas Board of Regents. I am here today to provide testimony regarding HB 2026. Mr. Chairman, I propose to present our office's testimony in two parts. First I will provide our stance on funding from the KUSF as proposed in HB 2026. I will also provide an accounting of Kan-ed activity covering the period from August, 2004 to the present. Then, our Director of Technical Operations and Planning, Eldon Rightmeier, will address some of the operational detail that has made the network a reality this past year.

HB 2026 with amendments passed by the House Utilities Committee, would reauthorize the current statute, (75-7221 – 75-7227), from its current June 30, 2005 "sunset" to June 30, 2010.

The Kansas Board of Regents, the Kansas Hospital Association, the Kansas Library Association, and the Kansas State Department of Education all support the continuation of funding for Kan-ed at the current level of \$10million annually for three additional years, out to June 30, 2008. We believe the Kansas Universal Service Fund is the appropriate mechanism for continued funding of the Kan-ed network. Section 254 of the *Telecommunications Act of 1996* incorporated health care, education, and libraries as beneficiaries of the Act's universal service provisions. Funding for Kan-ed out of the KUSF is consistent with the purposes of the act.

In addition to letters of support you and other legislators may have received from Kan-ed members, your committee will hear today from individuals representing hospitals, schools, and libraries from a number of regions throughout Kansas.

Authorized by the legislature in the 2001 session, Kan-ed was provided with sufficient funds to conduct research and planning. Full funding for Kan-ed from the KUSF was authorized by the legislature in 2002, with first payments to the Kansas Board of Regents in January of 2003. The Executive Director was named in November of 2002. Staffing to the current level of nine was accomplished in 2004. While our history is brief, our accomplishments in a relatively short timeframe have been substantial.

- Currently, 80% of the 939 eligible higher education institutions, hospitals, K-12 schools, and libraries have become Kan-ed members and have access to a variety of Kan-ed services.

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- Specific to connection to the physical, private and secure network, nearly 200 member sites, which include K-12 interactive distance learning (IDL) sites for course delivery, have been connected to the Kan-ed core backbone with the initiation of approximately 6,000 classroom sessions resulting in more than 15,000 individual connections between and among students and teachers in Kan-ed sites across Kansas.
- The Kan-ed Broadband Subsidy Program provided \$770,000 in 2004 for bandwidth acquisition support allowing for greater speed of connectivity to the Internet, to 339 of its member institutions.
- The Kan-ed Enhancing Technology Grant Program distributed \$3 million to 137 members in 2004 to upgrade older distance learning and video conferencing systems to state of the art H.323 (video over Internet Protocol) standards.
- Kan-ed is leasing telecommunications facilities and equipment from multiple local service providers to create a backbone across the state. Network Access Points (NAPS) at strategic locations connect the state's telecommunications providers directly, minimizing tariffs and access fees to the end user. This also allows Kan-ed to participate in the federal e-rate program, discounting services on the core network by nearly \$1.6 million. This federal program is administered by the schools and libraries division (SLD) a program of the FCC, and is intended to make connections to Internet and video technology resources, economically more feasible through telecommunications discounts, for schools and libraries in the United States. Kan-ed qualifies for this source of discounts because of our relationship to schools and libraries making use of the private and secure network over leased circuits.
- The Kan-ed competitive content and services development grant program provided \$250,000 to its members in 2004 to create programs that respond to the needs of Kan-ed members. This grant model will be carried forward into upcoming years as a means of providing a catalyst to members to discover increasingly innovative ways and means to fully utilize their network

We strongly recommend the reauthorization of Kan-ed's source of funding so that we can provide rigorous, ongoing effort over the next five years. During that same time, Kan-ed staff, our many volunteers, and consultants will be working to identify and develop other stable funding models for Kan-ed to build upon important work begun in these formative years.

Having the right people on staff is critical. There is no question in my mind that the person most qualified to do what many said would be an impossible task, was Eldon Rightmeier. Eldon will walk you through some of the critical steps that were taken this past year to fully implement the Kan-ed network's core backbone and opening rounds of end-user connectivity to that network.

Thank you for the opportunity to comment. We will be available for questions at the appropriate time.

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Attachment

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**Testimony before the Senate Commerce Committee – March 23, 2005**

Ms. Chairwoman and Members of the Senate Commerce Committee:

My name is Eldon Rightmeier. I am the Director of Technical Operations and Planning for Kan-ed. My purpose this morning is to provide information regarding the deployment of the Kan-ed private network.

*Implementation*

The Kan-ed Act (K.S.A. 75-7221 et seq) instructs “the state board of regents shall contract in accordance with this act for the creation, operation, and maintenance of [the network]”. Contracts “shall be let by competitive bid” but shall not provide for “impairment of any existing contract for the provision of telecommunication services or internet services to any school, library, or hospital.” In addition, the statute directs the network shall not provide for “state ownership or construction of any network facilities other than those owned or being constructed by the state on the effective date of this act.”

In order to meet these statutory provisions, Kan-ed initiated a Request for Proposal (RFP) process in April of 2003. The intent of this process was to establish a public/private partnership that would make statewide connectivity both cost effective and widely available to end users (schools, libraries and hospitals) through the leasing of appropriate network equipment and bandwidth.

Vendor responses to this process were complete and ready for review in September 2003. After review and negotiation, it was determined a multiple award contract was most appropriate. State contract 06412 was awarded to SBC, Cox and Sprint and became effective in January 2004.

At approximately the same time, it became apparent the Kan-ed network must access more of the state’s telecommunications infrastructure if it was to allow reasonably affordable access for the majority of constituents. Essentially, Kan-ed had to become a “network of networks” and include as many state telecom networks as possible.

In order to achieve this, Kan-ed initiated meetings with the Kansas Telecommunications Industry Association (KTIA) and the State Independent Telephone Association (SITA) to determine logical connection points for accessing additional Kansas telecommunications networks. An Invitation for Bid (IFB) process was undertaken, in concert with the state’s procurement office, to extend the backbone further into independent telephone company territories in order achieve greater direct, and therefore more affordable, access for Kan-ed constituents. The end result of the RFP and IFB processes is the network you see pictured in your handouts and on the map in the hearing room.

At present, Kan-ed partners with approximately twenty Kansas companies, either directly through contracts or indirectly through industry initiated cooperation. The Kan-ed

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network is completely leased through these Kansas telecom providers and has Network Access Points in all areas of the state.

### *Operations*

Kansas Statute 75-7224 requires network standards, administration and operations for the network. To address “technical standards for operation and maintenance of the network, and the method of monitoring operations of the network”, Kan-ed sought to create an industry neutral, independent, operations center. KanREN, an existing networking organization serving the needs of higher education in Kansas as well as certain Kan-ed constituents, was contracted to perform network management functions. The Network Operations Center (NOC), located in Lawrence, was created in late spring 2004 and became fully functional in August 2004. Not only did partnering with KanREN provide an industry neutral operations center, it allowed approximately 70 additional constituents instant access to the Kan-ed backbone and resources.

The Kan-ed network became operational in late August 2004. Initial sites were connected between mid-August and early October. The first sites to be connected to the network were Interactive Distance Learning (IDL) sites. Currently, over 200 sites are functioning on the combined Kan-ed/KanREN network.

### *Costs and Benefits*

I would like to add just a few comments regarding the costs and benefits of the network. The backbone network pictured before you costs approximately \$2.7 million dollars per year to lease. When Network Operations Center costs are added in, that figure grows to around \$4.2 million dollars per year. However, after applying e-rate funds of approximately \$1.6 million dollars, the total “out-of-pocket” expenditure for the private network drops to around \$2.6 million dollars annually. Since Kan-ed is effectively just getting started, we believe current funding levels will be adequate as network expansion continues during the next few years.

Also, since not all Kan-ed funds are used for the private network and the statute requires Internet access support, Kan-ed funds not used for the network are used to support constituent commercial internet access, network equipment requirements and certain content and data base initiatives. Commercial internet and equipment expenditure support is pictured on the remaining maps in your hand-out information. As you can see, distribution of funding is widespread throughout the state.

Please note Kan-ed does not compete with private industry in the commercial internet market. Rather, we have taken the position that Kan-ed exists to provide that connectivity, and those services, which private industry is less capable of providing; i.e. statewide video conferencing and access to Internet 2. As stated, Kan-ed supports commercial internet access through subsidies and grants.

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In terms of benefits, the Kan-ed program has made it possible to connect approximately eleven Interactive Distance Learning Networks. This has been attempted numerous times over the past twelve to fifteen years, but has never been as successful as it is today. At the present time, Distance Learning is a reality across Kansas, not just at certain locations within Kansas.

Another benefit of Kan-ed that is beginning to appear is access to statewide networking is becoming more cost effective for constituents. When a Kan-ed institution can work solely with their local provider to connect to the statewide backbone, costs are reduced for that institution. The extended network, or network of networks, concept operates for over 90 of the state's current 120 plus distance learning constituents. The most notable cost savings to date is a school in northeast Kansas where multiple vendor billing decreased from approximately \$2,400 per month to single vendor billing of less than \$900 per month. After applying e-rate, the out-of-pocket expense for this school dropped to around \$300 per month, a net savings of approximately \$6500 per year.

Industry cooperation is also playing a part in constituent savings. In 2004, one of our primary partners reduced its rate for Distance Learning local service from approximately \$1100 per month to less the \$800 per month. Other providers are already in this price range or are discussing similar measures. In addition, bundling of services and creative routing schemes may also result in cost savings for constituents. Such support of Kansas communities by the telecommunications industry is greatly appreciated.

Where the Kan-ed Network is Going from Here

Kan-ed was charged with assessing "the need of schools, libraries and hospitals for full-motion video connectivity" {K.S.A. 75-7224 (e)}. We are working with multiple Kansas hospitals to deploy telemedicine and tele-radiology applications. Kan-ed is looking at refinements and upgrades for the scheduling process associated with Distance Learning. We are looking to enhance scheduling for mobile classrooms and interstate access applications. A new product, Marratech, for desktop video collaboration is also under review with a recommendation scheduled by mid-year 2005.

I realize this is a considerable amount of information in a short period of time. I will try to answer any questions you may have. Thank you.

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**Testimony before the Kansas Senate Commerce Committee  
on behalf of House Bill 2026,  
An Act concerning the Kansas Universal Service Fund, relating to KAN-ED**

Mel Chastain, Ph.D.  
Director, Kansas Regents Educational Communications Center  
Associate Vice Provost for Information Technology  
Bob Dole Hall  
Kansas State University, Manhattan, KS 66506  
[chastain@ksu.edu](mailto:chastain@ksu.edu)  
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The Honorable Karen Brownlee, Chairperson  
Members of the Senate Commerce Committee  
Guests & Visitors

I am Mel Chastain, Director of the Kansas Regents Educational Communications Center, located at Kansas State University in Manhattan. I am also the current chair of the Kan-ed statewide User Advisory Council, and co-chair of its Content & Services committee. I'm honored to speak to you on behalf of the continuation of funding of Kan-ed, the statewide network serving the education, research and health care needs of the state of Kansas.

My three-part message for the committee this morning is straight-forward:

*First*, there are a good many "heroes" in higher education research in the State of Kansas ... men and women who regularly push technology-based innovation to never before imagined levels of excellence, while providing new revenue sources to fire the economic development engine of this state.

*Second*, while those innovations are remarkable, and in more cases than not involve broad bandwidth linkages with research institutions in *other* states or even nations, until the advent of Kan-ed, the opportunity to form the same linkages within the State of Kansas, with not only other universities, but with schools, libraries and hospitals in urban areas as well as isolated, rural locations, was difficult, if not impossible to accomplish.

*Third*, and perhaps most importantly, is the ultimate wisdom and appropriateness of the continuation of the Universal Service Fund to enable Kan-ed to provide this kind of access to rural and isolated schools, libraries and hospitals.

To illustrate the first two points with real examples, consider this: a microbiologist at Wichita State University has combined a field-based microbiology lab in the Salt Plains with the need for high school biology students to be able to study microbes in a safe environment. His theory is that if microbes are developed in a salty environment, there is no need to sterilize the samples. This would bring the cost to K-12 microbiology labs down considerably, while increasing laboratory safety. The point is that the two sets of needs already existed, but Kan-ed provided the link that enabled the research discoveries in the field to be shared in the public schools ... regardless of size or location. And if the technique works in a rural state like Kansas, the potential for replication in other states (and the attendant revenue stream) exists.

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Another example is the cooperation between the curriculum and instruction departments at K-State and Pittsburg State, the Kansas Foreign Language Association, Kan-ed, and the interactive distance education networks in Kansas (collectively known as KAIDE).

International research dealing with foreign language teaching effectiveness produces standards, which the colleges are translating into “blended learning” experiences, which combine the best of face-to-face teaching, point-to-mass broadcasting, Internet and multimedia interaction, and live classroom linkages over the KAIDE networks. The goal of this collaborative is simple ... to provide, over Kan-ed, access to the finest foreign language education possible to students in every Kansas high school, regardless of geographic location or size. And, if it works in Kansas, with foreign language, why not in other disciplines, and other states? Its potential as a national model is significant.

What ties each of these examples together is that they were all “jump-started” with small but well-targeted “content and services” grants from Kan-ed, in the Summer of 2004. Ten awards were made during that year, and eight more follow this year. Without Kan-ed support, and its network, none of them would have been able to “make the connection” between research lab and public school classroom.

Finally, you know much better than I the history, both within the State and nationally, of the Universal Service Fund. Nearly a century old, its origin was borne by the realization that the smallest, most rural locations should have affordable access to the prevalent form of telecommunications at the time. Pennies collected from the many were pooled to enable “universal” access for the rural and isolated schools, libraries and hospitals. A hundred years later, the technologies have changed, but the intrinsic truth of that objective is as solid today as it was then. Even with wireless, cellular and satellite communications, each is but a singular pocket of resources without a dedicated network ... and infrastructure, if you will ... robust enough to collect those inputs from across the system and route them quickly and securely to the appropriate destination, whether that last mile is achieved by a copper wire, a strand of glass, or a wireless transmitter.

You know that Kansas ranks behind only Texas and Georgia in drawing from Universal Service Funds to serve our predominantly rural areas. One quick look at our topography, overlaid by the existing Kan-ed network map, makes both the necessity and the wisdom of that fact self-evident. Every highway, be it of concrete, asphalt, glass or ether, is an infrastructure, which must be engineered, maintained and upgraded to enable quick, efficient and safe traffic to traverse its network of linkages. The Universal Service Fund was created to provide a long-term stable source of support for that infrastructure. It made sense a century ago. It makes sense today.

Continuation of the Universal Service Fund to support Kan-ed is respectfully requested.

Thank you for your time and consideration.

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HB2026 Kan-ed Funding  
Prepared for the Senate Commerce Committee  
By Fred D. Atchison, Jr., Director  
North Central Kansas Libraries System  
Manhattan Public Library  
629 Poyntz Avenue  
Manhattan, KS 66502  
March 23, 2005

Thank you for this opportunity to address this committee on the Kan-ed Network, a subject of great significance to the library community and the people we serve. My name is Fred Atchison, and I am the director of Manhattan Public Library and the North Central Kansas Libraries System. NCKL works with public libraries and school districts in the counties of Riley, Geary, Morris, Marion, Lyon, Chase, Pottawatomie, Wabaunsee, Marshall, Washington, Dickinson, and Clay. Many of our libraries would fit easily into this room. Those libraries are an expression of local community pride and commitment to the next generation. NCKL is one of seven regional library systems created by the legislature to extend library services throughout the state. The creation of the library systems has done much to improve the quality of library services in our communities, library systems that work to encourage collaboration and the sharing of resources. The creation of these library systems was a momentous step for Kansas.

The development of Kan-ed Network represents a huge opportunity to take resource sharing and collaboration to a level that a few years ago we could only dream about.

The Internet has transformed the way we live and work, and yet many communities and public institutions could not previously benefit from the information revolution. Often they lacked access to high-speed Internet connections due to lack of funding, and sometimes the local technical options simply weren't there. Libraries in local communities, particularly in locations dealing with geographic isolation and lack of economic development, have whole-heartedly embraced the promise of the Internet.

Kan-ed has responded to that need. The Kan-ed Network is the result of a unique public and private partnership of K-12 schools, libraries, hospitals, higher education, and the telecommunications business.

Libraries have benefited from Kan-ed through subsidies used to help pay for high-speed Internet connections. For example, in 2004 the library in Hope, Kansas (population 1,051), received a subsidy that enabled them to move from a slow dial-up connection to a fast DSL connection. The library was able to extend access to the Internet to patrons for the first time by adding two new computers.

Kan-ed has also provided libraries with the opportunity to apply for grants to develop educational and training content for the network. And libraries from Johnson County to Hope, Kansas have received access to databases provided by Kan-ed. Those

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databases include World Book Encyclopedia, Proquest Heritage Quest, Gale Literature Resource Center, Gale InfoTrac Custom Newspapers, Proquest nursing journals, and the Sprint-Empowered Desktop Education Program. Students, including those who are homeschooled, use these databases. They are available to business people, genealogists, and people seeking up-to-date health information. Few of the libraries in NCKL can afford these quality educational and informational resources, so it is the people we serve who truly benefit from these resources.

Right now, librarians are working together to create new educational and training content for use on the Kan-ed network. I believe that the great strength of the network is that it encourages collaboration and takes resource-sharing to a whole new level. For example, professional development and related training are natural ways to utilize the network; training modules will be developed that extend an opportunity to participate to every corner of the state.

Librarians have always collaborated, but Kan-ed facilitates working together on a scale never before possible. The really exciting thing about network collaboration is that it creates opportunities to work directly with other constituent groups. We are just beginning to find the ways that the resources and projects can be shared by libraries, schools, hospitals, and higher education.

This is a critical year of development for Kan-ed. It is essential that this work be allowed to continue. The network has already yielded remarkable results. The people we serve are the big winners in the effort. I urge you to support the full reauthorization of Kan-ed and to maintain a stable source of funding that will make it possible for our work to continue.

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March 23, 2005

**Testimony before Senate Commerce Committee on HB 2026**

Madame Chairwoman, Mr. Chairman, Senators, and staff. I come before you in support of the reauthorization of funding for Kan-Ed., HB 2026

My name is Carol Woolbright. I am the Director of the Greenbush Interactive Distance Learning Network at the Southeast Kansas Education Service Center, Girard. I also represent the Kansas Association for Interactive Distance Education (KAIDE) and the Kansas Distance Learning Consortium (KDLC). These agencies promote and support distance learning in Kansas. Participating schools are members of Kan-Ed and receive services and financial support for distance learning programs, internet access, databases and content, and grants for purchasing approved equipment. At the state level, the schools receive the benefits of the statewide backbone, computer-generated event or program scheduling, and the technical services of the Kan-Ed Network Operation Control Center or as we call it, the NOC.

During a regular school day, thousands of students take high school and college classes over the distance learning networks in Kansas and have done so since 1989 when the first regional networks became operational. My focus today will be to share the significant impact that our statewide network, Kan-Ed, has had on K-12 distance learning in Kansas. For today's discussion, I will use the Greenbush Interactive Distance Learning Network as an example, but any of the 10 distance learning networks in Kansas could be used in the same discussion.

The Greenbush Network of schools, community colleges, and universities is a collaboration of 38 high schools in 34 districts, 4 community colleges, and 5 universities who work together to support distance learning. The network sites are located in the eastern third of Kansas, touching three states: Nebraska, Missouri, and Oklahoma. Typically, we have about 75-90 high school and college classes on the network per year serving about 1550 to 1850 students in semester or year-long classes. In addition, we serve over 1000 elementary and middle school students each month in content-based academic enrichment programs. Elementary and middle school enrichment programs are curriculum based and aligned to Kansas Education Standards. They are taught by Greenbush teachers using our unique distance learning facilities including a simulated Rainforest where we teach about cultural and scientific ecology; a simulated Archaeology Dig where we teach archaeology, paleontology, and scientific processes; and an Astrophysical Observatory where we teach about space science and astronomy. All total, the Greenbush Interactive Distance Learning Network provides educational opportunities for more than 15,000 Kansas students each year in classes, enrichment, and videoconferencing programs. And, we have just begun to explore the kinds of educational innovation that can be accomplished for Kansas kids across the state using Kan-Ed resources.

Kan-Ed's role in supporting distance learning in Kansas schools is vital. Large schools use the network to provide low incidence classes that cannot be provided without distance learning. In 2001, when the Kansas Regents Required Curriculum went into effect, many schools, especially small rural schools, could not find teachers for all the subjects their students were required to take. The schools turned to distance learning technologies to aid them in providing the required curricula. Even today the shortage continues, and several teachers from other countries can be found teaching Spanish in Kansas high schools. Other Regents Curriculum classes that are

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always available on the network include upper level math and science classes. The Greenbush Network class schedule is driven by the needs of the member schools, so it changes each year to meet those needs. Without Kan-Ed and distance learning, many schools would be unable to provide all of the required classes under the Kansas Regents Curriculum and rural students, especially, would be academically handicapped with limited options.

In addition to helping schools with required curricula, the Kan-Ed network supports educational opportunities in videoconferencing with experts from around the world. Students studied the Rwandan genocide last spring and communicated directly with Rwandan students in a series of videoconferences that included six U.S. schools. After the Tsunami in December 2004, students participated in a videoconference with students in Thailand as they studied the impact of the Tsunami and its aftermath. Schools have participated in videoconferences with educators and students in Valencia, Spain, as they studied the ancient Roman Archaeology Ruins located in the city of Valencia. This month, eight school districts participated in a series of videoconferences with Mike Finke, a NASA astronaut, to learn about human survival in space. This week, six school districts will connect with Homer Hickam, the acclaimed NASA Rocket Scientist and author of *Rocket Boys* on which the movie, *October Sky*, is based. Twelve teachers from Labette USD 506 school district will receive training from staff at the Challenger Center in Virginia so they can teach the science program, *Journey Through the Universe*. Kan-Ed is responsible for making these kinds of events a reality for Kansas students and teachers. The benefit is multi-fold, but definitely, students have access to educational opportunities that are not available any other way. Secondly, distance learning opportunities are creating a population in Kansas that is technology savvy and understands the benefits of using interactive technologies. We are educating the children who will be responsible for advancing the important programs that have been put in place by legislators in this very room, including the Kansas Bioscience Authority and KansasBio as well as other innovative statewide programs. Kan-Ed is vital to our success not only in providing high quality education for students, but also to promote our state as a center for technological and scientific innovation.

The Kan-Ed technical staff created a cost effective statewide technology backbone solution by bringing together in a collaborative spirit, most of the state's telecommunications providers, a massively complex and difficult challenge. Kan-Ed members desiring interactive distance learning must connect their facility to the backbone using two T1 circuits, a cost effective service available throughout the state providing high quality video and audio. The Greenbush Network schools pay less for circuits today than they paid in 1989 when the network first became operational. Schools pay between \$240 to \$500 per month after Erate for circuits, depending on their service provider and the level of poverty as defined by the Schools and Library Division. The classroom equipment costs about \$32,000 and does not qualify for Erate funding. The transport equipment costs about \$22,000 and is Erate eligible under certain conditions. However, no school in the Greenbush network has paid 100% of the cost of the equipment. Several grants over the years have funded the classroom equipment and transport equipment. The equipment costs are one time costs, so after the initial purchase of equipment, the monthly ongoing cost is affordable for most schools. Access to the network brings up to seven different class options for district students.

Finally, Kan-Ed negotiates on behalf of schools when working with telecommunications providers. In two cases, Kan-Ed saved schools in excess of \$1000 per month in circuit costs charged by telecommunications providers due to the rural location of the districts and the difficulty in connecting the schools to the network. All Greenbush schools that converted to the H.323 technology of the Kan-Ed network between 2002 and 2004 saw a savings in monthly circuit costs of between \$155 and \$380 per month after the move to Kan-Ed.

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A recent study entitled, *Distance Education Courses for Public Elementary and Secondary School Students: 2002-03*, conducted by the National Center for Education Statistics and commissioned by the U.S. Department of Education found that 39% of students in U.S. schools took distance learning courses in 2002-03, and that 72% of public schools plan to expand or deploy distance learning. In 2002-03, nearly one in every 10 public schools in the country had students enrolled in distance learning courses. Kansas educators believed in 1989 that distance learning would increase educational opportunities for their students. It was so important to bring distance learning to Kansas that regional networks sprang up during the early 1990's to meet the needs of students. However, the networks remained isolated and without the ability to communicate beyond the region. When the TeleKansas II initiative was implemented in the mid-1990's, three networks gained the ability to connect to each other. In 2005, with Kan-Ed in place, 214 sites across the state can share resources and meet the needs of Kansas students.

As Legislators decide how to move Kan-Ed funding out of KUSF in the future, I urge you to consider the importance of dependable and reliable funding for the network. Please consider that a statewide backbone must have consistent funding and cannot be subjected to cuts if tax receipts are reduced. Thousands of students depend on the Kan-Ed Network for year-long classes that determine their future success in college and beyond in their careers. Kansas students and communities must rely on Legislators to provide stable funding resources for Kan-Ed year after year.

Distance learning networks continue to have several challenges because the Kan-Ed backbone is not fully deployed to meet all users' needs. Several schools plan to deploy distance learning for the 2005-06 school year, so more Network Access Points (NAPs) may be needed to accommodate the added sites. We need to revisit the statute to review the eligibility of museums, historical sites, and other agencies that can provide high quality content and other benefits to Kan-Ed members. We need to establish a statewide comprehensive plan to organize, plan, promote, and support distance learning for all learners in the state. As we use the Kan-Ed network to provide equal educational opportunities for all Kansas students and communities, we must also plan the future of distance learning so all Kansas students have educational opportunities that allow them to prepare for their futures and grasp their dreams.

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Attachment

8-3





Thomas L. Bell  
President

To: Senate Commerce Committee Members  
From: Jennifer Findley, Kansas Hospital Association  
Date: March 22, 2005  
Re: House Bill 2026

The Kansas Hospital Association appreciates the opportunity to provide comments in support of HB 2026. We would specifically like to share our concerns with the amended version of HB 2026 which declines funding provided to KAN-ED from the Kansas Universal Service Fund starting in FY 2007.

We believe the Kansas Universal Fund (KUSF) is the appropriate mechanism for continued funding of the KAN-ED network. Coming from the health care industry, we may not fully understand the pressures facing universal service, but we do understand that Section 254 of the "Telecommunications Act of 1996" incorporated health care, education and libraries as beneficiaries of the Act's universal service provisions. We also understand that in Kansas "enhanced universal service" as defined in K.S.A. 66-1, 187 (q) includes "broadband capable facilities to: All schools...hospitals...public libraries...which request broadband services". We believe KAN-ED's efforts are consistent with both the federal and Kansas versions of universal service.

A large part of KAN-ED's continued success will lie in its ability to receive adequate and stable funding. Many of the critical services provided to hospitals are only successful if there is long-term usage. The stability of KAN-ED is jeopardized if it has to compete in an already overburdened State General Fund. Reauthorizing the current statute and waiting to review federal actions regarding universal service are appropriate steps in creating that stability.

On behalf of all Kansas hospitals, we urge the committee to pass HB 2026 and consider fully funding KAN-ED through the KUSF.

Thank you for consideration of our comments. Please feel free to contact us if you need any additional information.

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**Kansas Hospital Association**

215 SE 8th Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/233-6955 • www.kha-net.org



Thomas L. Bell  
President

To: Senate Commerce Committee Members  
From: Dale White, Kansas Hospital Association  
Date: March 22, 2005  
Re: House Bill 2026

The Kansas Hospital Association appreciates the opportunity to provide comments in support of HB 2026. I am Dale White, CEO, Northeast Kansas Center for Health and Wellness, Inc. and am here today to represent the 92 hospitals currently participating in KAN-ED.

Hospitals of all sizes have enjoyed many benefits from their participation in KAN-ED including:

- Financial and technical assistance in acquisition of broadband services;
- Grants to hospitals for upgrading video conferencing equipment to allow operation on the KAN-ED network;
- Educational and reference resources for hospital employees;
- Grants to hospital members to develop continuing education programs that will be provided over the KAN-ED network;
- Opportunities for collaboration among KAN-ED constituents; and
- Access to a state-wide hospital communication system.

There are two specific hospital related KAN-ED projects that we would like to highlight.

First, KAN-ED has provided hospitals access to EMSsystem, a trauma diversion and resource tracking system. Hospitals can view in real-time information on hospital emergency department status, hospital patient capacity, availability of staffed beds, and special resources available. This information enables all hospitals to better handle daily trauma incidents and will also be a key part to managing a major disaster or terrorist event.

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Attachment 10-1

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**Kansas Hospital Association**

215 SE 8th Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/233-6955 • www.kha-net.org

Second, KAN-ED has fostered collaboration between KAN-ED constituents through its support of the Connected Kansas Kids project. This project between the Kansas University Center for Telemedicine and Telehealth of the Kansas University Medical Center (KUMC) and Unified School District (USD) 500 of Wyandotte County, Kansas uses the technological infrastructure in Kansas to assist kids in the hospital with chronic illnesses to keep in touch with friends and family and allows schools to continue working with these students make progress in academics.

We urge you today to support HB 2026 not just for what KAN-ED has already provided to Kansas hospitals, but equally important for the potential that exists for future services. The Medicare Modernization Act, the Governor's Healthy Kansas Initiative, the Leapfrog Initiative and many others have all focused on increased use of technology as a key factor to decreasing costs and increasing the quality and safety of the health care delivery system.

We are currently at the brink of several comprehensive health care technology initiatives. For example on the national level, President Bush's has set a goal for most Americans to have interoperable electronic health records within 10 years. Here in Kansas, the rural nature of our state coupled with the anticipated health care workforce shortages in future years make expanding telemedicine programs in Kansas imperative. Having Kansas hospitals connected to a state-wide network that allows communication and data transfer to be easy, reliable and secure will make implementation of these kinds of programs easier and more effective. We believe KAN-ED can be that network for hospitals.

A large part of KAN-ED's continued success will lie in its ability to receive adequate and stable funding. Many of the critical services related to hospitals are only successful if there is long-term usage. In light of all the pressures currently placed on the State General Fund, reauthorizing the current statute to provide KAN-ED funding from the Kansas Universal Services Fund is a good first step in creating that stability.

On behalf of all Kansas hospitals, we urge the committee to pass HB 2026.

Thank you for consideration of our comments. Please feel free to contact us if you need any additional information.

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Attachment 10-2

KANSAS  
ASSOCIATION



OF  
SCHOOL  
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024  
785-273-3600

Testimony on **HB 2026**  
before the  
**Senate Commerce Committee**

by

**Jim Edwards, Governmental Relations Specialist**  
Kansas Association of School Boards

**March 23, 2005**

Chairs Brownlee and Jordan and Members of the Committee:

Thank you for allowing me the opportunity to appear today to express KASB's support for **HB 2026**, a measure which provides for the continued funding of the operations of KAN-ED from the Kansas Universal Service Fund (KUSF) until the year 2010.

KAN-ED was created by the Kansas Legislature to expand the collaborative capabilities of Kansas' public institutions, specifically K-12 schools, higher education, libraries and hospitals, by providing a statewide private network to which constituents could connect for video collaboration and data sharing. KAN-ED also assists in negotiating content and services for the members as well as controlling access to the KAN-ED Web site services.

Whether it be providing students and teachers access to education's most comprehensive suite of instructional programs, software content, and professional development programs or providing access to thousands of citations and many full-text articles in scholarly journals, business and trade journals, and other news sources or providing a technological infrastructure to extend the work with kids that suffer from a chronic illness, their classmates, and their loved ones across the state, KAN-ED has met the challenge.

During these times of added pressure on the State General Fund, most of this might not have taken place without the stable funding source provided by the KUSF. We would note that the KUSF funding is to expire in 2010 and would therefore request that the Legislature find another stable funding source prior to that date.

Thank you for the opportunity to offer our thoughts on the continued funding of KAN-ED using the KUSF and we would encourage you to report **HB 2026** favorably. I would be happy to answer questions.

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Attachment 11-1

**Testimony of Sandy Braden  
Gaches, Braden, Barbee and Associates  
On Behalf of Cingular Wireless  
In Support of House Bill 2026 before the Senate Commerce Committee  
Wednesday, March 23, 2005**

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Thank you, Chairman Brownlee and members of the Committee for this opportunity to testify in support of House Bill 2026. I am Sandy Braden with Gaches, Braden, Barbee and Associates, testifying on behalf of Cingular Wireless.

Cingular Wireless serves more than 49 million subscribers and is a joint venture of SBC and BellSouth, with SBC owning 60% and BellSouth owning 40%.

Our customers contribute to the Kansas Universal Service Fund (KUSF) through an assessment on their bills that is a percentage of all intrastate retail revenues, and Cingular does not receive any funds from KUSF. KUSF support is distributed back to local telephone companies, designated eligible telecommunications carriers as well as programs like Lifeline, Kansas Relay Services, Telecommunications Access Program and KAN-ED.

Cingular is supportive of programs like KAN-ED, that expand opportunities for education, libraries and hospitals. Originally KAN-ED was viewed as a necessary program to connect Kansans to services that improve the quality of life. Due to limited state resources at the time, the legislature decided to fund KAN-ED out of the KUSF for three years with a \$10 million cap.

Cingular would encourage the legislature to transition the funding from KUSF to the state general fund. Although Cingular is not recommending a specific time frame for this transition to be accomplished, we support that gradually shifting from the KUSF fund to the state general fund would allow continuation of the valuable KAN-ED program.

Thank you. I will be available for questions at the appropriate time.

Sandy Braden  
Gaches, Braden, Barbee and Associates  
825 S. Kansas Suite 500  
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Senate Commerce Committee

3-23-05

Attachment 12-1

Written Testimony of Jason P. Talley

CEO

Nuvio Corporation

8400 West 110<sup>th</sup> Street

Overland Park, KS 662110

[www.nuvio.com](http://www.nuvio.com)

March 23, 2005

SENATE COMMERCE COMMITTEE

Chairman and distinguished Senators, thank you for allowing me the opportunity to present written opposition to this bill. I am deeply concerned about this bill, its impact on the Voice over IP industry, and the lasting effects on emerging technologies in Kansas.

We believe the bill under consideration today threatens the innovative climate that is permitting the development of VoIP and the use of the Internet to deliver this technology. This bill represents an attempt to classify next generation communications, including VoIP, into the same paradigm that has been classically used by states. Make no mistake about it, this is the opening salvo in legislation to stifle and eliminate a technology that is bringing choice and features to customers.

VoIP is an emerging transport technology that is being used in many different ways. There are no less than 4 different types of VoIP ranging from peer to peer technologies such as Free World Dialup and Xbox Live, Non facilities based providers like Nuvio and

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Vonage, Cable phone providers like Cox and Time Warner Cable, and PBX manufacturers such as Avaya. Some of these technologies connect to the Public Switched Telephone Network (PSTN) and some do not. This bill is extremely broad in its application and analysis of VoIP. On its face, it would subject Xbox Live users and other VoIP services to rules that require 911 services. There is much minutia to distinguish between various technologies and this is exactly the reason that the Federal Communications Commission (FCC) has undertaken an extensive and far-reaching docket to solve and answer many of the questions surrounding VoIP.

There needs to be a realization that VoIP is still a nascent technology. Today there are less than 1,000,000 users of VoIP in the United States. Certainly, even the most optimistic projections for VoIP only predict 7,000,000 users in the next four years.

This bill requires a VoIP provider to determine whether a customer is using the services in Kansas. Today no such mechanism permits that. Our service is far too multifaceted for simple identification of the end user's location to indicate jurisdiction. Moreover, the significant costs and operational complexities associated with modifying or procuring systems to track, record and process geographic location information as a necessary aspect of the service would substantially reduce the benefits of using the Internet to provide the service, and potentially inhibit its deployment and continued availability to consumers. The FCC agrees with this position and has referenced it in the *Vonage Order Adopted November 9, 2004*. In addition, telephone numbers no longer have any jurisdictional meaning, certainly not one that can be relied upon for taxation purposes.

There is no reliable method for complying with this bill and it would create an impossible dilemma for VoIP Service Providers. Similarly, attempting to use the subscriber's billing address or address of residence is not legally sufficient to establish jurisdiction over the user by Kansas(See also *Vonage Order of November 9, 2004*).

The FCC has classified VoIP services such as Nuvio purely interstate in its *Vonage Order*. This order clearly states that the FCC has sole jurisdiction over VoIP providers and they were not to be regulated by 50 different state regimes. This attempt at legislation is exactly the type of law that the FCC was attempting to prevent. While the FCC did not adopt regulations governing 911 in their *Vonage Order*, they indicated that the issue was pre-empted by federal law and would be dealt with by the FCC in its upcoming *IP Enabled Services NPRM*.

One of the reasons why the FCC did not rule on 911 services is the varying complexity that 911 presents. This proposed bill attempts to boil down 911 services to 4 clauses. By comparison the FCC Proposed Rulemaking comprises over 100 pages. Please allow those with technical expertise the first opportunity to address these issues properly.

VoIP providers like Nuvio are limited in their ability to access existing 911 infrastructure. Even if the determination of a user's location was able to be magically solved by some unknown technology, Nuvio would not be able to interface with the selective routers that deliver emergency calls to the PSAPs. Nuvio is not a certificated CLEC and has no interconnection rights. This bill does not address a fundamental flaw in that current



interconnection system. Also, requiring Nuvio to interconnect with every selective router in the state (assuming we had interconnection rights) would be cost prohibitive at this point. Simply providing the PSAP numbers to Nuvio does not enable us to determine “which is the appropriate PSAP” as this bill requires. We are making strides to deploy 911 services when and where we can. It will take time and technological innovation to provide 911 for VoIP that is the same as provided today by the PSTN. Nuvio does pride itself on being able to deploy a limited E-911 solution to its NuvioCentrex customers in certain markets. This was made possible by using our CLEC arrangements and some of their existing infrastructure. This only works for telephone numbers that have been assigned out of that CLEC. For example, we have no ability to assign a phone number that is local to Neodesha, KS. We simply have no agreements with any CLEC or ILEC in that market. But, a customer may choose to have our service at that location with a number from Overland Park. We could not properly route the emergency call even though we offer a limited version of E-911 in Overland Park.

This bill would require Nuvio to physically call a PSAP if an emergency call is received and relay information such as address, phone number, etc. First of all, Nuvio does not have an emergency response call center to handle this type of call. Secondly, Nuvio does not want to assume liability for providing the correct address to any PSAP for a 911 call. Our customers agree with our terms of service which expressly state what our 911 solution can and cannot do. This would be exposing Nuvio to huge liability, and one that we do not want to assume. Finally, the financial burden to fully staff and support a 911

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call center in our office would outweigh any benefit of doing business in the state of Kansas.

Kansas's attempt to tax and regulate 911 completely ignores what the FCC has done and is continuing to do in its analysis and rulemaking concerning VoIP. In the FCC's preemption of the *Minnesota Vonage Order*, the FCC clearly indicates that 911 requirements and capabilities will be addressed by the FCC in its pending *IP-Enabled Services Proceeding*. The FCC has **already** exerted federal jurisdiction over this matter. Kansas is rushing to legislate without adequate investigation into the technology and current federal preemption.

There is broad reference to reimbursing collection point administrators for their fees, yet this bill does not specify any checks or balances on this taxing ability. This is an open ended tax that could become significant.

This bill attempts to fit VoIP into constructs used for the last 100 years of telephone service. VoIP is **not** telephone service, rather it is an application that depends on access to the Internet, much like email and web browsing. Do not confuse the user interfaces with the underlying technology, VoIP represents an entire paradigm shift from traditional telecommunications.

Nuvio takes its responsibilities as a VoIP service provider very seriously and has been active at the federal level with solving many of the social issues that surround VoIP such

as 911, CALEA, and USF funding. However, due to the intrinsic ubiquity of the Internet, nothing short of Nuvio ceasing to offer its service entirely could guarantee that a subscriber would not be subject to this proposed bill. These issues need to be solved at a federal level, not by Kansas and 49 other states.

If this bill is passed in its present form, Nuvio will have no choice but to cease offering service to Kansas residents. We will implement a system that requires users to warrant and represent that they are not using the service in Kansas and they are not Kansas Residents.

I would urge you to not support this bill and to wait for the FCC to finish its investigation and rulemaking before attempting to tax and regulate this technology.

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March 23, 2005

**HB2026**

Thank you Chairman and members of the Committee.

Verizon Wireless recognizes that the KAN-ED program is an important initiative for Kansas schools, hospitals and libraries. The problem, however, is the way it's funded.

It's commonly understood that the KUSF was established to provide funds to facilitate basic telephone service to underserved areas of Kansas at affordable rates by subsidizing telephone companies to serve those areas. We don't believe that the KUSF was established with the legislative intent to fund programs like KAN-ED.

We are also concerned that the diversion of funds to KAN-ED will encourage other social programs to likewise seek KUSF funding in the future.

We are here to support an amendment that will phase out the use of KUSF to fund KAN-ED, and instead fund KAN-ED with general revenue money over a three-year time period. Five years are simply not needed for the funding shift.

KUSF was never intended to fund KAN-ED, and telecommunication customers should not have to continue to support a program, although a good one, for which their tax support was not intended. We can do it in less time and be fair to every telecommunication customer in Kansas. It is possible and fairer to sunset this improper funding in three years, not five.

This solution serves two purposes: It enables a worthy program to continue to provide opportunities for students and it ensures - rightly - that telecommunication customers are not the long-term source of funding for the program.

Our goal is simple. We are committed to defending the best interests of our wireless customers. Shifting the KUSF funding of KAN-ED to the state's general revenue fund over the next three years ensures the continued existence of this important program while providing a fairer funding mechanism and correcting the obligation that has been placed on wireless and landline phone customers.

Thank you,

Dina Fisk

13106 Walmer  
Overland Park, KS 66209  
(913) 269-6915

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1 be made after all payments required by K.S.A. 66-2008, and amendments  
2 thereto, for the month are made from the KUSF.

3 (3) ~~Amounts appropriated to be expended from the KAN-ED fund  
4 for the fiscal year ending June 30, 2003, shall be based on a budget for  
5 only six months' operations. Amounts appropriated thereafter shall be  
6 based on a budget for 12 months' operations.~~

5 (4) Not more than \$10,000,000 **the following** shall be paid from the  
8 KUSF to the state treasurer pursuant to this subsection (f) in any one  
9 fiscal year: **In fiscal year 2006, \$10,000,000; in fiscal year 2007,**  
10 **\$8,000,000; in fiscal year 2008, \$7,000,000; in fiscal year 2009,**  
11 **\$6,500,000; and in fiscal year 2010, \$5,500,000.**

12 ~~(5) (4)~~ The provisions of this subsection (f) shall expire on June 30,  
13 ~~2005 2008~~ **2010**. Thereafter, state general fund moneys shall be used to  
14 fund the KAN-ED network.

15 **Sec. 2. K.S.A. 2004 Supp. 75-7226 is hereby amended to read**  
16 **as follows: 75-7226. (a) On or before January 15 of each year, the**  
17 **board shall publish an annual report and shall present the report**  
18 **to the legislature, governor and department of education. The report**  
19 **shall set forth in detail the operations and transactions conducted**  
20 **by the board pursuant to this act. The annual report shall**  
21 **specifically account for the ways in which the purpose of this act**  
22 **have been carried out, and the recommendations shall specifically**  
23 **note what changes are necessary to better address the purposes**  
24 **described in this act.**

25 *(b) The report required pursuant to this section in years 2006, 2007,*  
26 *2008 and 2009 shall include a statement of the costs of and savings realized*  
27 *by implementation of the network and a plan for funding the network.*

28 **New Sec. 3. (a) As used in this section:**

29 (1) "VoIP provider" means any provider of voice over internet  
30 protocol service (hereafter referred to as VoIP) other than a business  
31 which: (1) does not provide such service to customers outside  
32 its business organization; or (2) provides VoIP service as a customer  
33 product secondary to the primary product sold by the  
34 business.

35 (2) "Local collection point administrator" and "PSAP" have the  
36 meanings provided in the wireless enhanced 911 act.

37 (b) Any VoIP provider providing services to persons who are  
38 primarily residents of Kansas shall notify the local collection point  
39 administrator to receive a list of telephone numbers for PSAP's in  
40 this state. Upon receipt of an emergency 911 call, a VoIP provider  
41 shall call the appropriate PSAP and relay the customer's name,  
42 residence address and any other relevant information recorded in  
43 the VoIP provider's records.

**Comment: LINES 9 THRU 11**

**INSERT:**

**IN FISCAL YEAR 2006,**  
**\$10 MILLION;**

**IN FISCAL YEAR 2007,**  
**\$7.5 MILLION;**

**IN FISCAL YEAR 2008,**  
**\$5.5 MILLION.**

**Comment: LINE 13 INSERT:**

**2008, WITHOUT EXCEPTION.**



Testimony of Jim Gartner, on behalf of SBC  
In opposition to Section 3 of HB 2026  
Before the Senate Commerce Committee  
March 23, 2005

Madame Chairwomen, Mr. Chairman, members of the Committee, my name is Jim Gartner. I'm pleased to appear before you this morning on behalf of SBC to share concerns with Section 3 of House Bill 2026, dealing with E911 functionality with Voice over Internet Protocol (VoIP) services.

SBC is a steadfast supporter of E911 service and its public safety benefits. However, SBC believes efforts to impose rules on this new technology are premature.

The VoIP industry, along with the National Emergency Number Association and others, is working toward the goal of providing everyone with E911 functionality. Additionally, the FCC is addressing the E911 issue, and many others, in its *IP-Enabled Services Proceeding*.

From a legal perspective, VoIP service has been ruled interstate in nature, leaving the states with no authority to impose rules. If the language in HB 2026 becomes law, it's likely an organization may challenge it.

VoIP is a promising new technology. The industry needs to be given the opportunity to collectively develop solutions for E911. Kansas should follow the FCC's lead regarding regulation VoIP and other new technologies.

I'll be happy to address any questions at the appropriate time.

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Attachment 15-1

1 be made after all payments required by K.S.A. 66-2008, and amendments  
 2 thereto, for the month are made from the KUSF.

3 ~~(3) Amounts appropriated to be expended from the KAN-ED fund~~  
 4 ~~for the fiscal year ending June 30, 2003, shall be based on a budget for~~  
 5 ~~only six months' operations. Amounts appropriated thereafter shall be~~  
 6 ~~based on a budget for 12 months' operations.~~

7 ~~(4) Not more than \$10,000,000~~ **the following** shall be paid from the  
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 19 **report shall set forth in detail the operations and transactions con-**  
 20 **ducted by the board pursuant to this act. The annual report shall**  
 21 **specifically account for the ways in which the purpose of this act**  
 22 **have been carried out, and the recommendations shall specifically**  
 23 **note what changes are necessary to better address the purposes**  
 24 **described in this act.**

25 *(b) The report required pursuant to this section in years 2006, 2007,*  
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 32 ~~its business organization; or (2) provides VoIP service as a cus-~~  
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 38 ~~primarily residents of Kansas shall notify the local collection point~~  
 39 ~~administrator to receive a list of telephone numbers for PSAP's in~~  
 40 ~~this state. Upon receipt of an emergency 911 call, a VoIP provider~~  
 41 ~~shall call the appropriate PSAP and relay the customer's name,~~  
 42 ~~residence address and any other relevant information recorded in~~  
 43 ~~the VoIP provider's records.~~

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- 1 ~~(e) The local collection point administrator may require VoIP~~
- 2 ~~providers to reimburse the administrator for costs associated with~~
- 3 ~~developing, compiling, maintaining and providing the list of tele~~
- 4 ~~phone numbers of PSAP's in this state.~~
- 5 **New Sec. 4.3** No public safety answering point other than a po
- 6 litical subdivision of the state shall be eligible to receive moneys
- 7 distributed pursuant to the wireless enhanced 911 act.
- 8 **Sec. 5.** K.S.A. 66-2010 is and K.S.A. 2004 Supp. 75-7226 are
- 9 hereby repealed.
- 10 **Sec. 6.** This act shall take effect and be in force from and after its
- 11 publication in the statute book.

Senate Commerce Committee

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Attachment

15-3



# KCTA

Kansas Cable Telecommunications Association

815 SW Topeka Blvd.  
Second Floor  
Topeka, Kansas 66612 • (785) 290-0018

**Testimony Related to HB2026  
Before The  
Senate Commerce Committee  
March 23, 2005  
Submitted by John J. Federico  
On Behalf of The Kansas Cable Telecommunications Association**

The Kansas Cable Telecommunications Association (KCTA) has a long history of supporting the KAN-ED Program and would strongly support any efforts made by the legislature to continue the Program. We do however, have some concerns about the amendment made to HB2026 related to the regulation of VoIP.

We urge the legislature to give careful consideration to any attempts to regulate or restrict the technology referred to Voice over Internet Protocol. As you are aware, the FCC is currently considering imposing regulatory framework for VoIP. As such, we would support the removal of the amended language in HB2026 and perhaps consider separate legislation after the FCC has made its ruling.

However, if you choose to further consider HB 2026 in its current form, we respectfully request that you consider the amendment offered by KCTA. (Please see attached balloon amendment)

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Attachment

110-1

Senate Commerce  
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Attachment 16-2

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42 **residence address and any other relevant information recorded in**  
43 **the VoIP provider's records.**

Proposed Amendment to HB2026

Submitted By: The Kansas Cable  
Telecommunications Assn

**(3) provides emergency 911 calling capability that is functionally equivalent to standard switched telephone service.**