

## HOUSE BILL No. 2021

By Legislative Educational Planning Committee

1-18

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1 AN ACT concerning the KAN-ED act; relating to membership thereof;  
2 amending K.S.A. 2010 Supp. 66-2010, 75-7222, 75-7223, 75-7224  
3 and 75-7226 and repealing the existing sections; also repealing K.S.A.  
4 2010 Supp. 75-7228.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2010 Supp. 66-2010 is hereby amended to read as  
8 follows: 66-2010. (a) The commission shall utilize a competitive bidding  
9 process to select a neutral, competent and bonded third party to  
10 administer the KUSF.

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

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

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

1 maintained in the district court of any county in which such carrier, utility  
2 or provider provides service.

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

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

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

28 ~~(3) Not more than the following shall be paid from the KUSF to the~~  
29 ~~state treasurer pursuant to this subsection (f): In fiscal year 2006,~~  
30 ~~\$10,000,000; in fiscal year 2007, \$8,000,000; in fiscal year 2008,~~  
31 ~~\$6,000,000; and in fiscal year 2009, \$5,500,000. In fiscal year 2011, and~~  
32 ~~each fiscal year thereafter, the state treasurer shall transfer an amount~~  
33 ~~equal to \$10,000,000 from KUSF to the KAN-ED fund pursuant to this~~  
34 ~~subsection. Such funding shall be subject to appropriations acts of the~~  
35 ~~legislation, provided, that along with education funding described in~~  
36 ~~K.S.A. 2010 Supp. 72-64c03, and amendments thereto, the funding of the~~  
37 ~~KAN-ED network shall be given the highest priority by the legislature.~~

38 ~~(4) The provisions of this subsection (f) shall expire on June 30,~~  
39 ~~2009. Thereafter, state general fund moneys shall be used to fund the~~  
40 ~~KAN-ED network and such funding shall be of the highest priority along~~  
41 ~~with education funding.~~

42 Sec. 2. K.S.A. 2010 Supp. 75-7222 is hereby amended to read as  
43 follows: 75-7222. As used in this act, unless the context requires

1 otherwise:

2 (a) "Board" means the state board of regents.

3 (b) *"Community anchor institution" means any entity operating in*  
4 *the state as a school, library, medical and healthcare provider, public*  
5 *safety entities, community colleges, technical colleges and other*  
6 *institutions of higher education and other community support*  
7 *organizations and agencies that provide outreach, access, equipment and*  
8 *support services to facilitate greater use of broadband service by*  
9 *vulnerable populations, including persons with low income earnings,*  
10 *persons who are unemployed and the elderly.*

11 (c) *"Community based technology network" means any entity*  
12 *operating in the state as a public or private nonprofit organization or*  
13 *segment of county or local government that: (1) Is representative of a*  
14 *community or significant segments of a community; and (2) provides*  
15 *technology or educational technology or related services to individuals in*  
16 *the community.*

17 (d) *"Health information organization" means any entity operating in*  
18 *the state which: (1) Maintains technical infrastructure for the electronic*  
19 *movement of health information among health care providers and health*  
20 *plans; and (2) adopts and enforces policies governing participation in*  
21 *such health information exchange.*

22 ~~(b)~~ (e) "Hospital" means a licensed hospital, as defined in K.S.A.  
23 65-425, and amendments thereto.

24 (f) *"KAN-ED member" means the board and any school, library or*  
25 *hospital.*

26 (g) *"KAN-ED associate member" means any health information*  
27 *organization, community anchor institution or community based*  
28 *technology network.*

29 ~~(e)~~ (h) "Library" means: (1) The state library; (2) any public library  
30 established and operating under the laws of this state; or (3) any regional  
31 system of cooperating libraries, as defined in K.S.A. 75-2548, and  
32 amendments thereto.

33 ~~(d)~~ (i) "Network" means the KAN-ED network created pursuant to  
34 this act.

35 ~~(e)~~ (j) "School" means: (1) Any unified school district, school  
36 district interlocal cooperative, school district cooperative or nonpublic  
37 school accredited by the state board of education *or school that is*  
38 *accredited by a national or regional accrediting agency recognized by*  
39 *the state board of education; or (2) any community college, technical*  
40 *college, ~~area vocational school, area vocational-technical school~~ the*  
41 *institute of technology at Washburn university or Kansas educational*  
42 *institution, as defined in K.S.A. 74-32,120, and amendments thereto.*

43 Sec. 3. K.S.A. 2010 Supp. 75-7223 is hereby amended to read as

1 follows: 75-7223. (a) The purpose of this act is to provide for a  
2 broadband technology-based network to which ~~schools, libraries and~~  
3 ~~hospitals~~ *KAN-ED members and KAN-ED associate members* may  
4 connect for broadband internet access and intranet access for distance  
5 learning. For that purpose, the state board of regents shall contract in  
6 accordance with this act for the creation, operation and maintenance of  
7 such network, to be known as the KAN-ED network.

8 (b) The network shall allow the following features: (1) Universal  
9 provider interconnection or peering rights; ~~and~~ (2) competitively bid end-  
10 user KAN-ED connections; ~~and~~ (3) *establishment of priority in funding*  
11 *grant programs and connectivity or access to the KAN-ED network with*  
12 *KAN-ED members being given first priority, and KAN-ED associate*  
13 *members given second priority.*

14 (c) The network shall not provide for: (1) Impairment of any  
15 existing contract for the provision of telecommunications services or  
16 internet services to any ~~school, library or hospital~~ *KAN-ED member or*  
17 *KAN-ED associate member*; (2) ~~state~~ *KAN-ED* ownership or construction  
18 of any network facilities other than those owned or being constructed by  
19 the state ~~on the effective date of this act of Kansas~~; (3) switched voice  
20 access, except to the extent switched access is being provided by state  
21 owned, leased or operated facilities ~~as of the effective date of this act~~; (4)  
22 ~~transmission of voice over internet or voice over internet protocol, except~~  
23 ~~to the extent necessary to facilitate interactive two-way video~~; (5) use of  
24 the network for purposes inconsistent with the purposes of this act; (6)  
25 (5) the establishment of a proprietary interconnection agreement with a  
26 provider or proprietary peering standards by a provider, the purpose of  
27 which is to act as a barrier to peering or interconnection of providers to  
28 the KAN-ED network; or (7) (6) any financial fee or obligation required  
29 to connect a peered provider network to the KAN-ED network which is  
30 unusual or not customary. The provisions of clause (6) (5) shall not  
31 preclude the board from establishing technical standards for operation  
32 and maintenance of the network as required by subsection (c)(1) of  
33 K.S.A. 2010 Supp. 75-7224, and amendments thereto.

34 Sec. 4. K.S.A. 2010 Supp. 75-7224 is hereby amended to read as  
35 follows: 75-7224. (a) The board shall establish a plan to ensure that all  
36 schools, libraries and hospitals have quality, affordable access to the  
37 internet and distance learning. *The board shall work with representatives*  
38 *of health information organizations, community anchor institutions and*  
39 *community based technology networks to assist with quality, affordable*  
40 *access to the internet and distance learning.* The board shall adopt  
41 standards for determining whether such access is available to each school,  
42 library or hospital desiring such access and shall adopt priorities for  
43 implementation of such access. The board may request and receive

1 assistance from any school, any library, any hospital, the state corporation  
2 commission, any other agency of the state or any telecommunications,  
3 cable or other communications services provider to gather necessary data  
4 to implement such plan and establish such standards and priorities. The  
5 board shall develop a methodology for updating and validating any data  
6 collected for periodic revisions of the *distance learning plan, annual*  
7 *report*, standards and priorities. ~~Not less than 75% of all schools which~~  
8 ~~have applied to the board to participate in the network, 75% of all~~  
9 ~~libraries which have applied to the board to participate in the network and~~  
10 ~~75% of all hospitals which have applied to the board to participate in the~~  
11 ~~network shall have access to the network by July 1, 2004.~~

12 (b) The board shall contract with providers of telecommunications  
13 services, cable services and other communications services for the  
14 creation, operation and maintenance of the network. Such contracts shall  
15 be let by competitive bids as provided by ~~K.S.A. 75-3739~~ *K.S.A. 75-*  
16 *37,102*, and amendments thereto.

17 (c) The board shall establish: (1) Technical standards for operation  
18 and maintenance of the network; (2) the method of monitoring operations  
19 of the network; and (3) the method or methods of increasing the capacity  
20 of the network to accommodate changes in the demands of schools,  
21 libraries and hospitals.

22 (d) The board shall identify any potential regulatory impediments to  
23 and other regulatory considerations in implementation of the network and  
24 shall propose measures to address such impediments and other  
25 considerations.

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

30 (f) The board may appoint such advisory committees as the board  
31 determines necessary to carry out the purposes of this act. The  
32 membership of advisory committees may include both members of the  
33 board and persons who are not board members. Such advisory  
34 committees, to the extent appropriate, shall include both communications  
35 services providers and participants knowledgeable about topics such as  
36 network facilities and services, network content and user training, and  
37 such other topics as may be necessary or useful. Members of advisory  
38 committees appointed by the board shall receive amounts provided for in  
39 subsection (e) of K.S.A. 75-3223, and amendments thereto.

40 ~~(g) On or before July 1, 2002, and thereafter as the board deems~~  
41 ~~appropriate, the board shall adopt rules and regulations to implement and~~  
42 ~~administer the provisions of this act.~~

43 (h) (g) The board shall have all other powers necessary to achieve

1 the purposes of this act, including but not limited to the power to receive  
2 any appropriations, donations, grants, bequests and devises, conditional  
3 and otherwise, of money, property, services or other things of value for  
4 the purposes of this act.

5 (†) (h) The state department of education, the division of information  
6 systems and communications of the department of administration, the  
7 state corporation commission and all other state agencies shall cooperate  
8 with the board in providing information and other assistance requested by  
9 the board for the performance of its duties pursuant to this act.

10 Sec. 5. K.S.A. 2010 Supp. 75-7226 is hereby amended to read as  
11 follows: 75-7226. (a) On or before January 15 of each year, the board  
12 shall publish an annual report and shall present the report to the  
13 legislature, governor and department of education. The report shall set  
14 forth in detail the operations and transactions conducted by the board  
15 pursuant to this act. The annual report shall specifically account for the  
16 ways in which the purpose of this act have been carried out, and the  
17 recommendations shall specifically note what changes are necessary to  
18 better address the purposes described in this act.

19 ~~(b) The report required pursuant to this section in years 2006, 2007~~  
20 ~~and 2008 shall include a statement of the costs of and savings realized by~~  
21 ~~implementation of the network and a plan for funding the network.~~

22 Sec. 6. K.S.A. 2010 Supp. 66-2010, 75-7222, 75-7223, 75-7224, 75-  
23 7226 and 75-7228 are hereby repealed.

24 Sec. 7. This act shall take effect and be in force from and after its  
25 publication in the statute book.