

Senate Substitute for HOUSE BILL No. 2390

AN ACT concerning KAN-ED; amending K.S.A. 2011 Supp. 66-2010, 72-9712, 75-2546, 75-7222, 75-7223, 75-7224 and 75-7226 and repealing the existing sections; also repealing K.S.A. 2011 Supp. 75-7228.

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

Section 1. K.S.A. 2011 Supp. 66-2010 is hereby amended to read as follows: 66-2010. (a) The commission shall utilize a competitive bidding process to select a neutral, competent and bonded third party to administer the KUSF.

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

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

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

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

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

~~(2) On or before the 10th day of each month, the administrator of the KUSF shall pay from the KUSF to the state treasurer 1/12 of the amount certified by the chief executive officer of the state board of regents pursuant to subsection (a) for the fiscal year preceding the fiscal year in which the payment is made. Subject to the provisions of appropriations acts, for fiscal year 2013, the KUSF administrator may transfer moneys from the KUSF to the state treasurer. Upon the receipt of the any payment, the state treasurer shall deposit the entire amount in the state treasury and credit it to the KAN-ED fund. Any such payments shall be made after all payments required by K.S.A. 66-2008, and amendments thereto, for the month are made from the KUSF.~~

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

~~(4) The provisions of this subsection (f) shall expire on June 30, 2009.~~

~~Thereafter, state general fund moneys shall be used to fund the KAN-ED network and such funding shall be of the highest priority along with education funding.~~

Sec. 2. K.S.A. 2011 Supp. 72-9712 is hereby amended to read as follows: 72-9712. (a) The state board of regents shall adopt any rules and regulations necessary for the administration of the provisions of this act and, subject to appropriations therefore, shall:

(1) Provide for establishment and operation of the Kansas academy of mathematics and science program by a postsecondary educational institution designated by the board;

(2) establish guidelines and procedures for operation of KAMS and for selection of academically talented pupils who apply for admission to KAMS;

(3) prescribe the curriculum of KAMS, including coursework in mathematics through calculus II, chemistry, biology, physics, computer science, English and history. The course of study for KAMS pupils shall be subject to the approval of the state board of education and shall be designed to meet both the high school graduation requirements and the requirements for an associate of arts or an associate of science degree. The state assessment scores of academically talented pupils in KAMS shall be included in the state assessment scores of the school district which such pupil last attended, but nothing herein shall preclude the use of such assessments by KAMS. Solely for the purpose of admission to KAMS, an academically talented pupil shall not be required to comply with the requirements of K.S.A. 76-717, and amendments thereto; and

(4) establish tuition and fees for academically talented pupils attending the KAMS program. For academically talented pupils who are enrolled in a Kansas school district, such tuition and fees, other than those fees which are regularly charged to high school pupils, shall be paid by the school district where such pupil is enrolled, but shall not exceed an amount equal to base state aid per pupil. All academically talented pupils shall be responsible for the payment of any fees regularly charged to other pupils enrolled in high school. Tuition and fees charged to pupils who are not enrolled in a Kansas school district may exceed the amount charged to pupils who are enrolled in a Kansas school district. Academically talented pupils who are not enrolled in a Kansas school district shall be responsible for the payment of all tuition and fees.

(b) The guidelines and procedures for the operation of KAMS shall address:

(1) Selection and admission of academically talented pupils on the basis of mathematics or science career interests, standardized tests scores, transcripts, teacher evaluations, essays, family commitment, personal interviews and other such factors as the board identifies;

(2) selection of faculty and faculty qualifications;

(3) research, laboratory and field trip activities;

(4) extracurricular activities;

(5) college and career counseling services;

(6) college credit to be awarded;

(7) preparation and utilization of manuals to be provided to high school counselors for use in advising academically talented pupils;

(8) computers and software needed;

(9) ways and means of encouraging and facilitating parental involvement in KAMS; and

(10) manner and method of publicizing KAMS and acquainting academically talented pupils and their parents with the benefits to be gained by attending KAMS.

(c) The procedure for selecting academically talented pupils for admission to KAMS shall provide for admission of 20 academically talented pupils selected on a congressional district basis with no more than five pupils from each of the four congressional districts and 20 other academically talented pupils selected on a statewide basis. If there are fewer than five academically talented pupils who apply for admission to KAMS from any one of the four congressional districts, academically talented pupils applying from the other Kansas congressional districts may be substituted therefore, but congressional district balance shall be maintained to the extent possible. The board of regents shall have the authority to expand the number of academically talented pupils and to authorize admission

of nonresident academically talented pupils and international academically talented pupils as well as additional Kansas residents. Any such expansion of the number of Kansas residents pupils shall maintain the same proportions as provided above for congressional districts and selections on a statewide basis. At least ~~three-fourths~~ 3/4 of the total number of academically talented pupils enrolled in KAMS shall be Kansas residents. ~~The selection criteria and programs for KAMS may include advance placement courses offered over the KAN-ED network for pupils in grades 9 through 12.~~

Admittance to KAMS shall be determined solely pursuant to rules and regulations of the state board of regents. Nothing in this section shall be construed to require the admittance of a gifted pupil to KAMS or the inclusion of KAMS admittance as a part of a gifted pupil's IEP.

(d) The board shall have authority to aid regent institutions in developing short-term summer academies and shall include in its budget request funds for operating such academies. The governor shall include funding therefor in the governor's budget report. ~~Such summer academies may be residential or use the KAN-ED system.~~

Sec. 3. K.S.A. 2011 Supp. 75-2546 is hereby amended to read as follows: 75-2546. (a) There is hereby created the state library of Kansas board, which shall consist of 14 members as follows:

(1) Seven members shall be professional librarians appointed by the governor. The professional organizations representing the following types of librarians shall each submit a list of three nominees for appointment to the board and the governor shall appoint one member from each such list: (A) Public librarians; (B) school librarians; (C) regents' librarians; (D) community college librarians; (E) private college librarians; (F) regional library systems librarians; and (G) special librarians. It shall be the responsibility of the state librarian to collect the names of nominees from the professional organizations of the librarians and to transmit them to the governor.

(2) Four members shall be appointed by the governor as follows: (A) One member who is a trustee of a public library; (B) two members representing the general public; and (C) one member who shall be a qualified member of the Kansas federation of women's clubs.

(3) Three members shall be members *ex officio* and shall not be entitled to vote. Such members shall be: (A) The executive officer of the board of regents or the designee of the executive officer; (B) the commissioner of education or the designee of the commissioner; and (C) the state librarian.

(b) Each appointed member of the board shall serve for a term of four years and until a successor is appointed and qualifies except members first appointed to the board shall serve the following terms, as designated by the governor: Three shall serve for terms of four years, three for terms of three years, two for terms of two years and three for terms of one year. The appointed members of the board shall not serve more than two consecutive four-year terms.

(c) It shall be the duty of the governor to make appointments in the manner provided by subsection (a) to fill vacancies on the board as they occur. Any person appointed to a vacancy shall serve for the unexpired term until a successor is appointed and qualifies.

(d) The board shall organize annually by electing a chairperson and a vice-chairperson. The vice-chairperson shall preside at meetings in the absence of the chairperson. The state librarian shall serve as secretary of the board. The board shall meet at least quarterly and at such other times as meetings are called by the secretary.

(e) The board shall:

(1) Advocate for statewide library services and resources, encouraging cooperation among libraries and promoting and encouraging innovative library services;

(2) advise and counsel the state librarian on policies and management and the state library strategic plan;

(3) review and approve the annual plans of regional systems of co-operating libraries;

(4) ~~promote collaboration with the state board of regents to ensure the inclusion of libraries on the KAN-ED network and the continued availability of statewide library reference resources;~~

~~(5)~~—perform such other duties and functions as provided by law; and
~~(6)~~(5) recommend statewide priorities for interlibrary cooperation and resource sharing.

(f) Members of the board attending meetings of the board, or attending a subcommittee meeting thereof authorized by the board, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto. Amounts paid under this section shall be paid from appropriations to the state library upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state librarian or a person designated by the state librarian.

Sec. 4. K.S.A. 2011 Supp. 75-7222 is hereby amended to read as follows: 75-7222. As used in this act, unless the context requires otherwise:

(a) “Board” means the state board of regents.

(b) “Broadband technology-based video communication” means a class of communications technologies which may include switched ethernet services, DSL, cable modem, private line service, multiprotocol label switching (MPLS) based networks, managed or dedicated internet technologies and other future technologies capable of supporting such applications.

(c) “Hospital” means a licensed hospital, as defined in K.S.A. 65-425, and amendments thereto.

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

~~(d)~~(e) “Network” means the KAN-ED network. “Program” means the KAN-ED program created pursuant to this act to facilitate schools’, libraries’ and hospitals’ use of broadband technology-based video communication for distance learning and telemedicine.

~~(e)~~(f) “School” means: (1) Any unified school district, school district interlocal cooperative, school district cooperative or nonpublic school accredited by the state board of education; or (2) any community college, technical college, the institute of technology at Washburn university or Kansas educational institution, as defined in K.S.A. 74-32,120, and amendments thereto.

Sec. 5. K.S.A. 2011 Supp. 75-7223 is hereby amended to read as follows: 75-7223. (a) The purpose of this act is to provide for a broadband technology-based network to which program to facilitate use of broadband technology-based video communication for distance learning and telemedicine by schools, libraries and hospitals may connect for broadband internet access and intranet access for distance learning. For that purpose

(b) To carry out the purpose of this act, the state board of regents shall may contract in accordance with this act for the creation, operation and maintenance of such network, to be known as the KAN-ED network goods and services necessary to administer such program.

~~(b)~~—The network shall allow the following features: (1) Universal provider interconnection or peering rights; and (2) competitively bid end-user KAN-ED connections.

(c) The network program shall not provide for: (1) Impairment of any existing contract for the provision of telecommunications services or internet services to any school, library or hospital; (2) 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; (3) switched voice access, except to the extent switched access is being provided by state owned, leased or operated facilities as of the effective date of this act; (4) transmission of voice over internet or voice over internet protocol; except to the extent necessary to facilitate interactive two-way video; (5) 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; (3) switched voice access, except to the extent switched access is being provided by state-owned, leased or operated facilities as of the effective date of this act; (4) transmission of voice over internet or voice over internet protocol, except to the extent necessary to facilitate interactive two-way video; (5) content; or (6) use of the network program for purposes inconsistent with the purposes of this act; ~~(6) the establishment of a pro-~~

proprietary interconnection agreement with a provider or proprietary peering standards by a provider, the purpose of which is to act as a barrier to peering or interconnection of providers to the KAN-ED network, or (7) any financial fee or obligation required to connect a peered provider network to the KAN-ED network which is unusual or not customary. The provisions of clause (6) shall not preclude the board from establishing technical standards for operation and maintenance of the network as required by subsection (c)(1) of K.S.A. 2011 Supp. 75-7224, and amendments thereto.

Sec. 6. K.S.A. 2011 Supp. 75-7224 is hereby amended to read as follows: 75-7224. (a) The board shall: ~~establish a plan to ensure that all schools, libraries and hospitals have quality, affordable access to the internet and distance learning. The board shall adopt standards for determining whether such access is available to each school, library or hospital desiring such access and shall adopt priorities for implementation of such access~~

(1) *Provide a program to facilitate the use of broadband technology-based video communication for distance learning and telemedicine by schools, libraries and hospitals;*

(2) *transition schools, libraries and hospitals that have a direct KAN-ED connection as of January 1, 2012, to a commercially provided broadband internet connection no later than June 30, 2013. At the time a school, library or hospital has been transitioned off a KAN-ED connection, the board shall pay up to \$350 per month to such school, library or hospital for the cost of broadband service until June 30, 2013;*

(3) *provide the secretary of commerce any information necessary to conduct the needs assessment described in subsection (b);*

(4) *assist schools, libraries and hospitals to apply for federal grants to be used for purposes consistent with this act; and*

(5) *collect data regarding:*

(A) *distance learning and telemedicine usage; and*

(B) *the volume of data accessed.*

The board shall develop a methodology for updating and validating any data collected for periodic revisions of the program, standards and priorities.

(b) (1) *The secretary of commerce shall facilitate the execution of the needs assessment and the creation of the report. The secretary shall contract with a third party that has expertise in telecommunications services for educational institutions to conduct such needs assessment and create such report.*

(2) *The needs assessment shall include, for each school, library and hospital connected to the network as of January 1, 2012: Current and future broadband service and quality needs and a determination of all KAN-ED expenses for shared services or infrastructure, including any costs deferred by federal moneys, that are providing services and network connections. Based on the results of the needs assessment, the secretary of commerce, in coordination with the third party contractor, shall create a report that: (A) Compares the utilization, efficiency and effectiveness of KAN-ED to other similar programs in other states for schools, libraries and hospitals; (B) determines if the KAN-ED program, as of the effective date of this act, is worth its cost in terms of price, service, quality, needed network upgrades and increased utilization of broadband by schools, libraries and hospitals; (C) determines if there are alternative models or opportunities for broadband procurement by schools, libraries and hospitals; (D) determines if the services and applications offered by KAN-ED lead to full utilization of broadband technology by schools, libraries, hospitals and their surrounding communities; and (E) recommends any cost-effective broadband services that are available.*

(3) *The board shall reimburse the cost of conducting such needs assessment and report described in paragraph (2), not to exceed \$250,000.*

(4) *The results of such needs assessment and the report shall be submitted to the board on or before January 1, 2013.*

(c) ~~The board may request and receive assistance from any school, any library, any hospital, the state corporation commission, any other agency of the state or any telecommunications, cable or other communications services provider to gather necessary data to implement such plan and establish such standards and priorities program. The board shall~~

~~develop a methodology for updating and validating any data collected for periodic revisions of the plan, standards and priorities. Not less than 75% of all schools which have applied to the board to participate in the network, 75% of all libraries which have applied to the board to participate in the network and 75% of all hospitals which have applied to the board to participate in the network shall have access to the network by July 1, 2004.~~

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

~~(c)(d) The board shall establish: (1) Technical standards for operation and maintenance of the network program; (2) the method of monitoring operations of the network program; and (3) the method or methods of increasing the capacity of the network to accommodate changes in the demands adjusting the program to reflect the needs of schools, libraries and hospitals as determined by the needs assessment or ongoing data collection for each such entity. Such standards and methods shall be included in the board's report to the legislature pursuant to K.S.A. 2011 Supp. 75-7226, and amendments thereto.~~

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

~~(e) The board shall assess the need of schools, libraries and hospitals for full motion video connectivity. Based on its findings the findings of the needs assessments or collected data, the board may shall develop a plan to provide such connectivity. (1) Facilitate the use of broadband technology-based video communication for distance learning and telemedicine by schools, libraries and hospitals; (2) transition schools, libraries and hospitals that have a direct KAN-ED connection as of January 1, 2012, to a commercially provided broadband internet connection no later than June 30, 2013. The plan may require users of such connectivity the program to bear part of its cost. Such plan shall be included in the board's report to the legislature pursuant to K.S.A. 2011 Supp. 75-7226, and amendments thereto.~~

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

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

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

~~(i)(h) The state department of education, the division of information systems and communications office of information technology services of the department of administration, the state corporation commission and all other state agencies shall cooperate with the board in providing information and other assistance requested by the board for the performance of its duties pursuant to this act at no cost to such agencies.~~

Sec. 7. K.S.A. 2011 Supp. 75-7226 is hereby amended to read as follows: 75-7226. (a) On or before January 15 of each year, the board shall publish an annual report and shall present the report to the legislature, governor and department of education. The report shall set forth in detail the operations and transactions conducted by the board pursuant to this

act. The annual report shall specifically account for the ways in which the purpose of this act have been carried out, and the recommendations shall specifically note what changes are necessary to better address the purposes described in this act.

~~(b) The report required pursuant to this section in years 2006, 2007 and 2008 shall include a statement of the costs of and savings realized by implementation of the network and a plan for funding the network. On or before January 15, 2013, the board shall report to the senate standing committees on utilities and ways and means, the house standing committees on energy and utilities and appropriations and the joint committee on information technology. Such report shall include:~~

- ~~(1) Distance learning and telemedicine usage;~~
- ~~(2) options for a shared resource fee structure for schools, libraries and hospitals for distance learning and telemedicine usage;~~
- ~~(3) options to fund the KAN-ED program for fiscal year 2014;~~
- ~~(4) the standards and methods established by the board pursuant to subsection (c) of K.S.A. 2011 Supp. 75-7224, and amendments thereto; and~~
- ~~(5) the plan developed by the board pursuant to subsection (d) of K.S.A. 2011 Supp. 75-7224, and amendments thereto.~~

Sec. 8. K.S.A. 2011 Supp. 66-2010, 72-9712, 75-2546, 75-7222, 75-7223, 75-7224, 75-7226 and 75-7228 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.