



PERFORMANCE AUDIT REPORT

**High-Capacity Telecommunications Services:
Examining Local Telephone Companies'
Compliance with the 1996 Telecommunications Act**

Executive Summary ***with Conclusions and Recommendations***

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas**

April 2000



Legislative Post Audit Committee

Legislative Division of Post Audit

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To: Members of the Kansas Legislature

This executive summary contains the findings and conclusions, together with a summary of our recommendations and the agency responses, from our completed performance audit, *High-Capacity Telecommunications Services: Examining Local Telephone Companies' Compliance with the 1996 Telecommunications Act*.

The report contains two appendices that provide information about the costs for Internet access that a sample of school districts were incurring. The report also includes several recommendations for the Commission.

We would be happy to discuss these recommendations or any other items in the report with you at your convenience.

If you would like a copy of the full audit report, please call our office and we will send you one right away.

Barbara J. Hinton
Legislative Post Auditor

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Question 1: What Did the 1996 Telecommunications Act Require Local Phone Companies to Provide To School Districts, and Has the Corporation Commission Enforced Those Requirements?

The 1996 Telecommunications Act required local phone companies to promise to provide existing and newly ordered “broadband” services at discounted rates. page 3
The portion of the Act that relates to broadband services for school districts is K.S.A. 66-2005(b)(1). Other sections of the Act make the Commission responsible for enforcing phone companies’ commitment to provide broadband services.

The Commission’s actions haven’t been sufficient to ensure that local phone companies provide broadband services at discounted rates. page 4
Commission staff determined that phone companies committed to provide discounted broadband services. However, Commission staff have chosen to rely on customer complaints and phone company filings to monitor the provision of discounted services. We identified several weaknesses in the Commission’s process for reviewing contracts and tariffs, including: staff couldn’t locate the documentation showing the original analyses they’d done to review a tariff submitted by Southwestern Bell, staff hadn’t reviewed 20 contracts to ensure the appropriate rates were being charged, and the preliminary results of a recent data request by the Commission showed that there may be additional contracts for staff to review. These problems raise questions about the effectiveness of the Commission’s monitoring efforts.

The Telecommunications Act didn’t require phone companies to provide uniform rates to school districts, or to build a network that would interconnect all school districts. page 8
When this audit was approved, some people thought the Act required local phone companies to charge uniform prices for broadband services. It doesn’t. That requirement applies to ISDN—a different type of telephone service.

Some people also may have thought the Act required phone companies to build a network linking all school districts and other public entities to each other and allow high-speed access to the Internet. However, the Legislature amended the law in 1998 to require phone companies to provide broadband services only when a customer orders it.

Question 1 Conclusion. *The Telecommunications Act of 1996 provided a means for individual school districts to purchase broadband services at a discounted rate. The Act didn't require local phone companies to construct a network connecting school districts, nor did it require them to charge uniform rates for broadband services. It simply required them to promise to provide those services at a rate slightly above their long-run incremental cost. The Corporation Commission is responsible for ensuring that companies agree to provide the discount, and for ensuring that they do. However, given the problems we identified in the Commission's process for reviewing contracts and tariffs, there is a risk school districts and others have overpaid for broadband services. Until the Commission improves its review process there's no assurance that rates have been discounted appropriately.* page 9

Question 1 Recommendations. *We recommended that the Commission review existing contracts for broadband services to make sure the rates being charged are close to long-run incremental costs, and follow-up on its recent data request of phone companies about the broadband services they provide. After analyzing data reported by the phone companies, the Commission should report the results to the Post Audit Committee by November 1, 2000. The Commission also should consider implementing other cost-effective alternatives for routinely determining whether local phone companies are complying with the requirements of the Telecommunications Act.* page 9

Question 2: Why Do the Costs That School Districts Pay For Internet Access Vary So Much?

In August 1999, the Department of Education sent a survey to all school districts to help obtain information about each district's technological capabilities. *Information districts reported showed wide variations in their high-speed Internet connection costs. Because of inaccuracies and inconsistencies in some of the information reported by the districts, the Department's survey results shouldn't be used as a basis for making any policy or funding decisions.* page 10

In August 1999, our 13 sample districts' monthly Internet charges varied from about \$300 to \$2,700 but those charges have dropped and become more uniform since then. *We identified several important factors that help explain why the charges* page 11

varied. For example, districts in southwest Kansas are charged an additional amount because their connections cover long distances, while two districts have arrangements that allow them to receive some services at no charge. Because of federal subsidies, many districts actually owed less for their Internet access than what they were billed.

Question 2 Conclusion. *The 1996 Telecommunications Act didn't require providers to offer school districts broadband services at uniform prices and, as long as districts continue to pay for their broadband services separately, it's unlikely that price will ever be uniform. That's because factors that cause these costs to vary are the same factors that influence the cost of any good or service—what you buy, who you buy it from, and when you buy it.* page 14

Question 2 Recommendation. *We recommended that the Department of Education and the Legislature shouldn't rely on the Department's survey results to make public policy decisions. If addition information is needed, the Department should resurvey school districts.* page 14

Question 3: Would KAN-ED Be Needed if Certain Provisions of the 1996 Telecommunications Act Had Been Fully Implemented?

The KAN-ED proposal and Telecommunications Act both would allow school districts to obtain broadband services, but they are very different. *The Telecommunications Act allowed districts to acquire point-to-point broadband connections at discounted prices. KAN-ED is a program that's intended to create a State education technology network. It would do so by offering each school district one free broadband connection to the existing Statewide telecommunications network; the State would pick up that cost. KAN-ED also would provide school districts with access to the Internet, possible access to Internet2, the ability to use distance learning technologies, and free training and technical support.* page 15

Although initially all districts could have obtained high-speed Internet access under the Telecommunications Act, not many districts have it. *We identified several reasons, including: some districts may not have been aware of the provision allowing a discounted rate; some district officials told us that such connections were too expensive or they didn't need that much capacity; and after a 1998 FCC ruling, districts could no longer get the discounted rates offered under the Act for high-speed Internet connections.* page 18

The proposed KAN-ED network is more likely to achieve the goal of getting all districts hooked up with high-speed lines to the Internet. page 20
Without KAN-ED, or some program like it, it could be many more years before all districts have high-speed Internet service and are able to build the infrastructure needed to take advantage of those services. Without some way of linking districts to each other through high-speed lines, distance learning availability is limited Statewide. The services offered by KAN-ED go beyond what districts can get today. Officials hope that some costs will be offset by federal E-rate subsidies and private resources. The E-rate application is based on schools getting access to Internet2. However, this access hasn't yet been approved.

Question 3 Conclusion. page 22
If all school districts had used the Telecommunication Act in 1996 to obtain broadband services, they could have been connected to each other through the Internet. However, this type of connection has significant limitations for distance learning—it's slow and subject to disruption. In addition, most districts chose not to purchase broadband services, probably because of the cost they would still incur. If the Legislature wants all districts to be interconnected by high-speed lines, and to have access to advanced educational resources, it likely will need to provide State funding for some type of program. The Legislature will need to decide whether that program is KAN-ED or some other alternative.

All three agencies responding to the report generally agreed with the report's findings and conclusions.

APPENDIX A: Scope Statement . . . page 23

APPENDIX B: Comparison of the Department of Education's . . . page 26
Survey Results to the School District Invoices

APPENDIX C: Comparison of E-rate Discounts by School District . . . page 27

APPENDIX D: Agency Responses . . . page 28

This audit was conducted by Joe Lawhon, Chris Clarke, Anthony Perez, Scott Frank, and Jennifer Wagner. Cindy Lash was the audit manager. If you need any additional information about the audit's findings, please contact Joe Lawhon at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

