

SESSION OF 2011

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 2390**

As Recommended by Senate Committee on  
Utilities

**Brief\***

Senate Sub. for HB 2390 would amend the KAN-ED Act. The bill would phase out the KAN-ED network; focus program efforts on facilitating distance learning and telemedicine; provide for a one-time needs assessment for schools, libraries, and hospitals to identify connectivity and usage needs; assist schools, libraries, and hospitals to transition from the KAN-ED network to a commercial broadband internet connection; and assist them in filing directly for e-rate and other federal grants consistent with the purposes of the Act. The KAN-ED program would be funded by a \$6.0 million appropriation in FY 2013 from the Kansas Universal Service Fund. The Kansas Board of Regents would be required to adopt rules and regulations to implement and administer the Act, and to submit a report to the Legislature by January 15, 2013, that addresses usage, options for a fee structure, and options for funding the program for FY 2014 and beyond. The changes are described more fully below.

***Purpose of KAN-ED***

Under the substitute bill, the purpose of the KAN-ED Act would be to provide a program to facilitate use of broadband technology-based video communication for distance learning and telemedicine and to assist schools, libraries, and hospitals currently connected to the KAN-ED network to transition to a commercial internet connection. "Program"

---

\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

would be defined as the KAN-ED program created for the purposes of facilitating schools', libraries', and hospitals' use of broadband technology-based video communication for distance learning and telemedicine; and assisting schools, libraries, and hospitals that have a direct KAN-ED connection as of January 1, 2012, to connect to a commercially-provided broadband internet connection.

***Responsibilities of the Kansas Board of Regents Under the KAN-ED Program***

The Kansas Board of Regents would be assigned a series of responsibilities under the new program and would be authorized to contract for goods and services necessary to administer the program. The Board would be directed to:

- Provide a program to facilitate the use of broadband technology-based video communication for distance learning and telemedicine by schools, libraries, and hospitals;
- Perform a one-time needs assessment for schools, libraries, and hospitals that have a KAN-ED connection as of January 1, 2012, to determine each entity's need, and the scope of the need, for a broadband internet connection, and for distance learning and telemedicine delivery services;
- Assist schools, libraries, and hospitals that have a direct KAN-ED connection to transition from the network connection to a commercially-provided broadband internet connection, so long as a commercial internet connection is available that meets the entity's needs as determined by the needs assessment;
- Assist schools, libraries, and hospitals to apply for federal grants consistent with the purposes of the Act;

- Collect data for each school, library, and hospital in the program regarding usage of broadband internet, distance learning, and telemedicine, and develop a methodology for updating and validating the data; and
- Develop a plan, based on the needs assessment and data collected, that would facilitate distance learning and telemedicine, transition entities to a commercial internet connection when feasible, and establish a maximum level of funding that may be provided to each school, library, and hospital. The plan may require program participants to bear part of the cost.

By January 15, 2013, the Board would be required to submit a report to the Senate Committees on Utilities and Ways and Means, the House Committees on Energy and Utilities and Appropriations, and the Joint Committee on Information Technology. The report would cover the following topics:

- Broadband internet usage by each school, library, and hospital in the program;
- Distance learning and telemedicine usage;
- Options for a shared resource fee structure for schools, libraries, and hospitals for distance learning and telemedicine usage;
- Options to fund the KAN-ED program for FY 2014 and beyond;
- Technical standards of operation and maintenance of the program, the method of monitoring program operations, and the method for adjusting the program to reflect the needs of participants based on the needs assessment or ongoing data collection; and

- The plan developed by the Board to facilitate distance learning and telemedicine, transition entities to commercial internet, and establish the maximum funding level for each entity.

In addition, the Board would be required to submit an annual report to the Legislature, the Governor, and the Department of Education by January 15th of each year.

The Board would be required to adopt rules and regulations to implement and administer the provisions of the the Act and would be authorized to appoint advisory committees as necessary to carry out the purposes of the Act.

### ***Funding***

For FY 2013, the program would be funded by a \$6.0 million transfer from the Kansas Universal Service Fund (KUSF). On or before the 10th of each month, the KUSF administrator shall pay from the KUSF 1/12 of the \$6.0 million to the State Treasurer. Funding options for FY 2014 and beyond would be presented to various legislative committees in the report submitted by the Board of Regents, which would be due on or before January 15, 2013.

### **Background**

Funding for KAN-ED was the subject of several bills during the 2011 Session and a special interim study committee was authorized to evaluate the efficiency and effectiveness of KAN-ED. In addition, a Legislative Post Audit of the program was conducted to identify the critical services provided by KAN-ED and whether program members could afford to pay for the services currently offered through KAN-ED. The audit identified a number of inefficiencies and weaknesses in the network and recommended the Legislature determine whether the State should continue to provide the network and whether it should continue to pay for on-line content.

In response to concerns identified in the interim study and the audit, the Board of Regents indicated it would decommission the KAN-ED network over an 18-month period, assist members in migrating to a commercial internet provider or to KanREN, develop a needs assessment, provide support and training to members filing applications for federal e-rate funding, continue to file e-rate applications for FY 2013 to allow members time to transition to filing on their own, move to a subsidy program that will complement federal funds received by members to make the state funds go further, provide no on-line content beginning in FY 2013, and request \$6.0 million from KUSF for FY 2013 to effectively manage the decommissioning of the network.

SB 398 contained many of the provisions of the Board's proposal. The President and CEO of the Kansas Board of Regents testified in support of the bill in the Senate Utilities Committee, as did a representative of the Kansas Association of School Boards. The Kansas Library Association KAN-ED Liaison testified in support of the bill, but noted that commercial internet connections in rural areas may not be adequate, that bandwidth amounts delivered may be far less than advertised, and that libraries will need help paying for internet service.

The President of the Kansas Cable Telecommunications Association testified in opposition to the bill, citing unnecessary delay in implementing the changes and concern about the oversight of KAN-ED, including who would conduct the needs assessment. Neutral testimony was provided by representatives of AT&T, Kansas Farm Bureau, USD 113 Prairie Hill, Kansas Rural Independent Telephone Companies, and the Kansas Hospital Association.

The Senate Committee on Utilities amended SB 398 to require the needs assessment to address the scope of entities' needs and to change the date of the report to the legislative committees from February 1, 2013 to January 15, 2013, and require the report also to be distributed to the Joint Committee on Information Technology. The Committee also

made a technical amendment before placing the contents of SB 398 into HB 2390 (a 2011 bill that would have repealed the KAN-ED Act) and adopting a substitute bill.

The fiscal note prepared by the Division of the Budget for SB 398 indicates the bill would have no fiscal effect in FY 2013, and that the extent to which the subsidy program would incur costs for the State in FY 2014 is not yet known.