

SESSION OF 2012

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2390**

As Agreed to May 14, 2012

Brief*

Senate Sub. for HB 2390 would amend the KAN-ED Act to phase out the KAN-ED network. It would provide funding for the KAN-ED program from the Kansas Universal Service Fund (KUSF) for fiscal year 2013, subject to the provisions of appropriations acts. The purpose of the program would be to facilitate use by schools, libraries, and hospitals of broadband technology-based video communication for distance learning and telemedicine.

The bill would direct the Kansas Board of Regents (Board) to provide the KAN-ED program and would authorize the Board to contract for goods and services necessary to administer the program. The program could not provide for the following:

- Impairment of any existing contract for telecommunications or internet service to any school, library, or hospital;
- State ownership or construction of any network facilities other than those owned or under construction on the effective date of the act;
- Switched voice access, except to the extent it is being provided by state facilities on the effective date of the act;

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- Transmission of voice over internet protocol (VoIP), except to the extent necessary to facilitate interactive two-way video;
- Content; or
- Use of the program for purposes inconsistent with the purposes of the act.

The Board would transition schools, libraries and hospitals with a KAN-ED connection as of January 1, 2012, to a commercial broadband internet connection by June 30, 2013. Participants would receive up to \$350 per month for the cost of broadband service from the time they transitioned off the KAN-ED network until June 30, 2013. The Board would assist schools, libraries, and hospitals to apply for federal grants, including e-rate, consistent with the purposes of the act.

The Secretary of Commerce (Secretary) would contract for a needs assessment for schools, libraries, and hospitals connected to the network as of January 1, 2012. For each such entity, the assessment would include current and future broadband service and quality needs, as well as a determination of all KAN-ED expenses for shared services or infrastructure that are providing services and network connections. The contractor would be required to have expertise in telecommunication services for educational institutions.

Based on the results of the needs assessment the Secretary, in coordination with the contractor, shall create a report that includes the analysis described below. The cost of the needs assessment and report would be paid by the Board, could not exceed \$250,000, and would be required to be submitted to the Board by January 1, 2013. The report would:

- Compare the utilization, efficiency, and effectiveness of KAN-ED to other similar programs in other states for schools, libraries, and hospitals;
- Determine 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;
- Determine if there are alternative models or opportunities for broadband procurement by schools, libraries, and hospitals;
- Determine 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
- Recommend any cost-effective broadband services that are available.

The Board would be required to develop a plan, based on the needs assessment or collected data, to facilitate distance learning and telemedicine by schools, libraries, and hospitals and to transition entities with a direct KAN-ED connection as of January 1, 2012, to a commercial broadband internet connection no later than June 30, 2013.

The Board would be required by January 15, 2013 to submit a report to several legislative committees that addresses, among other things, distance learning and telemedicine usage, options for a shared fee structure, options for funding the program for fiscal year 2014, and the transition plan described above.

The bill would provide for two new definitions. "Program" would be defined as the KAN-ED program created to facilitate schools', libraries', and hospitals' use of broadband technology-based video communication for

distance learning and telemedicine. "Broadband technology-based video communications" would be defined as 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.

The bill would be in effect upon publication in the *Kansas Register*.

Conference Committee Action

The Conference Committee agreed to the Senate version of the bill with the following changes: funding for the program was limited to fiscal year 2013 subject to provisions of the appropriations act; the reference to residential summer academies for the KAMS program was stricken; the reference to the state library board collaborating with the Board of Regents regarding availability of library resources was stricken; "content" was clearly specified as an item that could not be provided by the KAN-ED program, and several other previously-stricken unauthorized uses were restored; a requirement to transition schools, libraries and hospitals to a commercial broadband connection by June 30, 2013 was instituted, along with a provision that the Board pay up to \$350 per month to participants from the time of transition until June 30, 2013; the Secretary of Commerce was directed to contract for the needs assessment called for in the bill, and to create the report to the Board based on the assessment with costs not to exceed \$250,000 reimbursed by the Board; the requirement for the Board to adopt rules and regulations to implement the act was stricken; language was added specifying that agencies that provide information and assistance required by the Board were to incur no cost in doing so; and the requirement for the Board to report options for funding the program beyond fiscal year 2014 was stricken.

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 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 Board 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 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 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 Senate Committee of the Whole amended Senate Sub. for HB 2390 to add a definition of broadband technology-based video communication; delete "assist schools, libraries, and hospitals that have a direct KAN-ED connection as of January 1, 2012, to transition from such network connection a commercially provided broadband internet connection" from the purpose of the act; direct the Board to set the parameters of, rather than perform, the needs assessment called for in the bill; and specify that the needs assessment is to be conducted by an independent, third party contractor who shall complete a series of comparisons, analyses, and assessments of the KAN-ED program based on the results of the needs assessment.

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 the extent to which the subsidy program would incur costs for the State in FY 2014 is not yet known.

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KAN-ED, broadband, network, KUSF, Kansas Board of Regents, telecommunications, internet, distance learning, telemedicine, schools, hospitals, libraries