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MEMORANDUM

To: Chairman Seiwert and members of the Utilities and Telecommunications Committee
From: Matt Sterling, Assistant Revisor of Statutes
Date: January 30, 2013
Subject: KAN-ED Statutory History

The framework for KAN-ED has been enacted and modified through several pieces of legislation. In 2001, Senate Substitute for HB 2035 was passed. The bill's stated purpose was to provide for a broadband technology-based network for schools, libraries and hospitals to connect to for broadband internet access and intranet access for distance learning. The board of regents was directed to contract with communications providers for the creation, operation and maintenance of this KAN-ED network. The network was not to impair existing contracts for telecommunications or internet service. Furthermore, no new construction of state owned assets was to be undertaken in the creation of the network. The board was authorized to appoint advisory committees with participants knowledgeable about topics such as network facilities and services, network content and user training, and any other topics as may be necessary or useful.

In 2002, Substitute for SB 614 established a funding mechanism for KAN-ED. The bill provided that, beginning January 1, 2003, funding for KAN-ED would come from the Kansas Universal Service Fund. The bill required the board to request funding approval through the appropriations process each year. Funding for KAN-ED was capped at \$10,000,000 per year. These provisions were originally set to expire on June 30, 2005. However, in 2005, HB 2026 extended this expiration date to June 30, 2009 and phased out funding for KAN-ED from the KUSF over four years¹. After this sunset, the statute required that "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." For three fiscal years, the budget bill included a proviso that authorized the transfer of funds from the KUSF to KAN-ED².

During the 2012 legislative session, the KAN-ED act was amended by Senate Sub. for HB 2390. The bill provided for phasing out the KAN-ED network and replacing it with the KAN-ED program. The bill provided funding for the KAN-ED program from the KUSF for fiscal year

¹ Under HB 2026, the maximum amounts of funding available to KAN-ED from the KUSF were as follows: FY 2006 - \$10,000,000; FY 2007 - \$8,000,000; FY 2008 - \$6,000,000; and FY 2009 - \$5,500,000.

² The transfers authorized by appropriations acts have been: FY 2010 - \$10,000,000; FY 2011 - \$10,000,000; and FY 2012 - \$6,000,000.

2013, subject to the provisions of appropriations acts³. The purpose of the program is to facilitate use by schools, libraries, and hospitals of broadband technology-based video communication for distance learning and telemedicine.

The program may not provide for: 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 already owned or under construction; switched voice access, except to the extent it is being provided by state facilities on the effective date of the act; transmission of 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 act requires the Board to 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 will receive up to \$350 per month for the cost of broadband service from the time they transition off the KAN-ED network until June 30, 2013. The Board will assist schools, libraries, and hospitals in applying for federal grants.

The Secretary of Commerce was required to contract for a needs assessment for schools, libraries, and hospitals connected to the network as of January 1, 2012. For each such entity, the needs assessment includes current and future broadband service and quality needs and a determination of all KAN-ED expenses for shared services or infrastructure that are providing services and network connections. Based on the findings of the needs assessment, the Secretary and contractor were required to create a report that:

- Compared the utilization, efficiency, and effectiveness of KAN-ED to other similar programs in other states for schools, libraries, and hospitals;
- Determined if the KAN-ED program is worth its cost in terms of price, service, quality, needed network upgrades, and increased utilization of broadband by schools, libraries, and hospitals;
- Determine whether 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.

Based on the needs assessment, the Board was required to develop a plan to facilitate distance learning and telemedicine for schools, libraries, and hospitals and the transition of such entities to a commercial broadband internet connection by June 30, 2013. The Board was required to submit a report to several legislative committees by January 15, 2013, that addresses distance learning and telemedicine usage, options for a shared fee structure, options for funding the program for fiscal year 2014, and the transition plan. The cost of the needs assessment and report, not to exceed \$250,000, was to be paid by the Board and had to be submitted to the Board by January 1, 2013.

³ For FY 2013 \$3,749,909 was authorized to be transferred from the KUSF.