

CORRECTED
SESSION OF 2012

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE
BILL NO. 393**

As Amended by House Committee of the Whole

Brief*

Sub. for SB 393, as amended, would require the State Board of Education (State Board) to conduct or contract for a study of the implementation of a new requirement that each school district maintain an individual career plan of study for each student enrolled in grades 8 through 12. Findings from the study would be submitted to the Legislature by January 15, 2014. This provision would go into effect on July 1, 2013. The State Board also would be required to report to the Legislature by January 15, 2014, regarding a proposed strategy and a proposed plan for providing state aid to career technical education programs or courses in school districts and shall consider the funding scheme under the postsecondary tiered technical education state aid act.

The bill would require the Board of Regents to establish a career technical education incentive program, which would award \$1,000, subject to appropriation, to a school district for each high school graduate who graduates from that district with an industry-recognized credential in a high-need occupation, as identified by the Secretary of Labor, in consultation with the State Board of Regents and the State Board. The bill would allow the Board of Regents to adopt rules and regulations necessary to administer the program. An amount up to \$1,000, taken out of the \$1,000 incentive award to a school district, would be used to pay the cost of the industry-recognized credential assessment for a pupil who has not obtained a high school diploma and is currently

*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>

or previously was enrolled in a career technical education course or program in the district. No school district would be required to pay for three or more industry-recognized credential assessments for the same or substantially the same credential if the pupil fails to earn the credential within two attempts of taking the assessment. After payment for credential assessments, the school district would be allowed to use any remaining portion of the \$1,000 award for the district's operating expenses. The same provisions would apply to students from a private secondary school, attending a community or technical college or institute of technology, except that the Board of Regents would reimburse a community or technical college or institute of technology for payment of the cost of industry-recognized credential assessments up to \$1,000 per student. The bill also clarifies that the Board of Regents is to distribute state funds to community colleges, technical colleges, and the Washburn Institute of Technology for the costs associated with secondary students enrolled at postsecondary career technical educational programs, to the extent sufficient moneys are appropriated to the program.

The bill would allow the governing board of a community college, technical college, or institute of technology to apply to the Board of Regents for permission to establish a career technical education program outside of the institution's service area if the program is not currently being offered in that service area. The provisions of this section would go into effect on July 1, 2013.

High school students admitted to a vocational education course or program conducted by a community college, technical college, or institute of technology could be charged fees, but not tuition. The bill would define "secondary student" as a pupil who has not attained a high school diploma or a general educational development (GED) credential and is regularly enrolled in or attending a public or private secondary school. The term "institute of technology" would refer to the Institute of Technology at Washburn University.

The bill would require the Board of Regents to initiate the development of a statewide articulation agreement on career technical education programs among high schools, community colleges, technical colleges, and the Institute of Technology. This provision would go into effect on July 1, 2013.

The bill would maintain the program weighting of 0.5 in current law which is used to compute the full-time equivalent enrollment in any approved vocational education program. The 0.5 vocational education weighting would be in effect through the 2014-2015 school year.

The bill would reduce bond and interest state aid from a median of 25.0 percent to 15.0 percent for any bond issue approved after January 1, 2013. The bill also would reduce capital outlay state aid from a median of 25.0 percent to 15.0 percent for new levies adopted after July 1, 2012. In addition, the bill would require the local board of education of any school district having less than 200 square miles in area and an enrollment of less than 400, and which is eligible for bond and interest state aid, to advise and consult with the Joint Committee on State Building Construction before authorizing the issuance of bonds for new building construction. The Joint Committee would review the bond issuance at a hearing. The Joint Committee would be required to make a recommendation regarding the bond issue and provide that recommendation to the school district and the State Board within 15 days of the hearing. Finally, the bill would require moneys received by a school district from bonds be used for the purposes described in the bond election.

The bill also would make changes to the school finance formula related to at-risk students. If a student submits an application for free meals under the National School Lunch Act, and it is later determined that the student should not have been eligible, the school district or the Department of Education would notify the State Board. After the notification, the Board would recompute the general fund budget of the school district based upon the adjusted enrollment, excluding

the at-risk student. The amount of state aid to the affected district would be adjusted accordingly. In addition, if a student became ineligible to receive free meals under the National School Lunch Act for failure to submit, in a timely manner, documentation necessary for verification of eligibility, the district would have until January 14 of the school year to submit the student's required documentation and avoid exclusion from the district's at-risk student count. The change would become effective in the 2012-2013 school year.

The bill also would revise the provision in the school finance law concerning the calculation of the high-density at-risk pupil weighting. The bill would provide for a linear transition formula to calculate the high-density at-risk pupil weighting for districts having between 35 percent and 50 percent at-risk pupils. For those districts having an at-risk pupil percentage of 50 percent or more, or for districts having an enrollment of at least 35.1 percent at-risk pupils and an enrollment density of at least 212.1 pupils per square mile, the district would multiply the number of at-risk pupils by 0.105 to determine the high-density at-risk weighting. For those districts having between 35 percent to less than 50 percent at-risk pupils, the district would multiply the number of at-risk pupils by a factor of 0.7. The bill would repeal medium-density at-risk weighting.

The bill would provide that in any action which challenges the adequacy of the state's funding of school districts, no less than 65.0 percent of all state moneys appropriated, distributed or otherwise provided by or through the school districts would be considered by the court to have been first applied to pay the costs related to areas of instruction and for the courses included in the pre-college curriculum, as prescribed by the Board of Regents. The burden to prove that moneys appropriated were not sufficient to fund the costs related to areas of instruction and for courses included in the pre-college curriculum prescribed by the Board of Regents would rest with the party challenging the adequacy of the state's provision for financing the educational interests of the state at all times. Programs that

are required to be provided by school districts per federal law would not be included for purposes of determining the adequacy of state funding.

The bill also would make changes in school employee performance evaluations. The evaluations would be based on multiple measures of student achievement and growth, which would be developed by the State Board. (School employees in this bill would be defined as all licensed employees of school districts and of nonpublic schools.) The bill would provide an annual designation of each employee in one of the following categories: highly effective, effective, progressing, or ineffective, as defined by the State Board. The designation would be based on performance using growth in student achievement as the primary evaluation factor. Evaluations would include recommendations for improvement and a plan of assistance, including time lines for expected improvement. Teachers receiving a rating of “progressing” or “ineffective” would be subject to an evaluation at least one time per semester, but not later than the 60th school day of the semester, regardless of that teacher's year of employment. Any teacher receiving a highly effective or effective rating would be evaluated under current law, which provides that after the fourth year of employment every employee is evaluated at least once every three years.

The bill would allow grounds for non-renewal or termination of a teacher's contract to include, but not be limited to, a teacher's receipt of a rating designation of ineffective in two consecutive school years. During this two-year period, the teacher would be provided an opportunity to participate in appropriate professional development. (This section would be applicable only to teachers who have earned due process protections and rights under KSA 72-5445.) Local boards of education would be allowed to apply to the State Board for a grant of state funds subject to appropriation to pay for a probationary teacher or administrative employee to attend mentor programs. Such programs would be developed according to rules and regulations developed by the State Board. This provision

would be in addition to the current mentor teacher program. The bill also would require moneys received for professional development to be used to deal with deficiencies identified in the evaluation process. In addition, the bill would eliminate evaluations as a mandatory negotiable item in collective bargaining agreements, after such time as the State Board adopts, via rules and regulations, the Kansas Educator Evaluation Protocol (KEEP) or a statewide evaluation system substantially similar to KEEP.

The bill would change the local operating budget, formerly the local option budget, by requiring the district to adopt a local operating budget which is required to be at least 10.0 percent, but not more than 27.0 percent, of state financial aid for the current year. A local operating budget in excess of 27.0 percent shall be adopted by a separate resolution and approved by a majority of qualified electors of the school district voting at election. An amount equal to 10.0 percent of the base state aid per pupil multiplied by the adjusted enrollment of the school district must be transferred to the general fund. The transferred funds must be expended as follows:

- 10.0 percent state financial aid attributable to at-risk must be spent on at-risk assistance or programs in the district; and
- 10.0 percent of the state financial aid attributable to bilingual education must be spent on bilingual programs.
- Any remaining funds must be expended for general operating expenses.

Funds transferred pursuant to the above would be deemed state moneys for education and support services for school districts.

The bill would authorize a school district to adopt an extracurricular school activities budget which would not

exceed 2.0 percent of the statewide average amount per pupil. Only school districts which have adopted a local option budget not less than 30.0 percent of the state financial aid of the district would be eligible to adopt an extracurricular school activities budget. If a district's average amount per pupil and the adopted extracurricular school activities budget exceeds the statewide average per pupil, then the extracurricular school activities budget would be the difference between the statewide average per pupil and the district average per pupil. The bill would require that a resolution to adopt an extracurricular school activities budget must be approved by a majority of the qualified electors of the school district. The authority would expire five years from the date of the election. The bill would create an extracurricular school activities budget fund allowing expenditures for voluntary activities sponsored by the school and not required by state law to be provided in accredited schools. Examples of extracurricular school activities would include, but not be limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

The bill would establish the Unified School District Contribution Program which would begin after December 31, 2012. The program would provide a check off for a donation to a designated school district on individual income tax return forms. The Department of Revenue would be responsible for determining the total amount donated to the program and the amount would be credited to a fund established for this purpose in the state treasury. The Kansas Department of Education would be responsible for administering the funds to the district as designated by the taxpayer. Funds would be considered a donation to the district and would be used for the purpose of financing education.

The bill would amend current law to include the supplemental general fund as a fund school districts cannot use for the purpose of engaging in, or supporting any litigation by the school district or any person, association, corporation or other entity against the state, the State Board

of Education, the Department of Education, other state agency, officer, or employee regarding the School District Finance and Quality Performance Act or any other law concerning school finance.

The bill would amend current law to require the State Board of Regents to authorize the following class of persons to pay resident tuition rates:

- Persons in the military service;
- Persons who are domiciliary residents of the state at the time of enrollment, who were in active military service for at least 36 months before becoming domiciliary residents of the state, and have been discharged or retired from military service under honorable conditions.

Current law does not require the Board of Regents to provide resident tuition to such persons, but allows the Board to do so.

Lastly, the bill amends the powers and duties of technical college boards by allowing the boards to acquire any property by lease-purchase which is necessary or desirable for technical college purposes. The lease purchase agreement is limited to ten years, may provide for annual or other payment of rent or rental fees, including maintenance or other expenses, and is subject to change or termination at any time by the legislature and must contain a clause containing such termination language.

Background

Sub. for SB 393, originally, was a portion of SB 361, the Governor's Excellence in Education Act. At the hearing on SB 393, representatives of the Kansas Board of Regents, Kansas Restaurant and Hospitality Association, and United

School Administrators testified as proponents. There was no other testimony.

The Senate Committee made several changes to the bill, including the following:

- Eliminated a provision that would have abolished the current vocational education weighting in the school finance formula and replacing it with a career technical education state aid payment program to be established by the Board of Education; and
- Eliminated a provision that would have prohibited provision of career technical education state aid to secondary career technical education programs that were determined by the State Board as duplicative and located within 30 miles of a program offered by a postsecondary institution.

The Senate Committee also amended the bill by adopting a substitute bill with the provisions described above and by adding definitions for "articulation agreement," "fees and tuition," and "individual career plan."

The House Education Committee made several amendments to the bill, including:

- Making a provision for reimbursement of industry-recognized credential assessments;
- Elimination of the 0.5 vocational education weighting for the 2013-2014 school year and years thereafter;
- Adding the Board of Regents and State Board as consultants with the Secretary of Labor in determining high-need occupations; and

- Adding definitions for "secondary student" and "institute of technology."

The bill was sent to the House Education Budget Committee by House Appropriations where the bill was amended to include the contents of the following bills:

- 2011 HB 2200, as amended by the House Committee of the Whole. The House Education Budget Committee amended the dates by which a levy or contractual bond obligation were incurred from July 1, 2011, to January 1, 2013, for Capital Improvement State Aid and from July 1, 2011, to July 1, 2012, for Capital Outlay State Aid.
- 2011 HB 2017, as amended by the House Committee on Education.
- 2012 HB 2018, as amended by the House Committee on Education. The House Education Budget Committee amended the effective date of the bill to the 2012-2013 school year.
- 2012 House Sub. for SB 28, as passed by the House Committee of the Whole.
- 2011 HB 2269, as amended by the House Committee of the Whole. The House Education Budget Committee amended language in the bill passed by the House Committee of the Whole by requiring the district to adopt a local operating budget which is required to be at least 10.0 percent, but not more than 30.0 percent, of state financial aid for the current year. A local operating budget in excess of 30.0 percent shall be adopted by a separate resolution and approved by a majority of qualified electors of the school district voting at election. An amount equal to \$420 multiplied by the adjusted enrollment of the school district must be transferred to the general fund. The

transferred funds must be expended first to at-risk (10 percent), second to bilingual education (10 percent), and, lastly, to general operating expenses (any remaining funds). These funds would be deemed state moneys for education and support services for school districts.

- 2012 HB 2634, as passed by the House Committee of the Whole. The House Education Budget Committee added a new section which would allow a teacher at a community or technical college to teach a career technical education class at the secondary level without completing a teacher preparation program prior to certification.

The bill also was amended by the House Education Budget Committee to allow the boards of a community college, technical college, or institute of technology to acquire any property by lease-purchase which is necessary or desirable for technical college purposes and to limit the lease-purchase to ten years. Language also was included in the bill to extend the sunset provision for the 0.5 weighting three years and to require the State Board to report the Legislature by January 15, 2014, regarding a proposed strategy and a proposed plan for providing state aid to career technical education programs or courses in school districts. The bill also includes clarifying language regarding the distribution of state funds to community colleges, technical colleges, and the Washburn Institute of Technology for the cost associated with secondary students enrolled in postsecondary career technical education programs as determined by the Kansas Board of Regents.

The House Committee of the Whole made several amendments including establishment of an extracurricular school activities budget, prohibition on the use of supplemental general funds for engaging in or supporting any manner of school finance litigation, establishing a Unified School District Contribution Program check off on individual income tax forms, expanding those individuals eligible for

resident tuition at Kansas Board of Regents institutions, as well as conforming amendments.

There was no fiscal note on the substitute bill. The Division of the Budget fiscal note on the original bill indicated enactment would require total expenditures of \$57,960,952 from the State General Fund for FY 2013, including \$28.5 million for the Board of Regents and \$29,460,952 for the Kansas Department of Education.