

3
4 **HOUSE BILL No. 2804**

5
6 By Representatives Bethell and Huff

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8 2-7

9
10 AN ACT concerning school district finance; authorizing the adoption of
11 teacher benefit and classroom enhancement budgets by boards of ed-
12 ucation and providing for the financing of such budgets; **relating to**
13 **school facilities weighting; amending K.S.A. 2001 Supp. 72-6407**
14 **and repealing the existing section.**

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. (a) In each school year, the board of any district may adopt
18 a teacher benefit and classroom enhancement budget in an amount not
19 to exceed 5% of the amount of state financial aid determined for the
20 district in the school year, subject to any one or more of the following
21 conditions:

22 (1) Enrollment in the district in the school year has declined from
23 enrollment in the preceding school year; or

24 (2) the board has adopted a local option budget and has budgeted
25 therein the total amount authorized for the school year; or

26 (3) the board has determined that the amounts budgeted for oper-
27 ating expenses in the general fund and the supplemental general fund are
28 insufficient to provide for certified teacher benefits and classroom
29 enhancements.

30 (b) No district may adopt a teacher benefit and classroom enhance-
31 ment budget unless the question of adoption of such a budget has been
32 submitted to and approved by the electors of the district at a general or
33 primary election or at a special election called for the purpose. The elec-
34 tion shall be held in the manner provided by K.S.A. 10-120, and amend-
35 ments thereto, for elections on the question of issuing bonds under the
36 general bond law. **Except as provided further, in any election held**
37 **pursuant to this section, no school district funds shall be expended**
38 **to promote or reject such budget adoption. The school district may**
39 **print and distribute a two-page informational document concern-**
40 **ing such election 14 days prior to the date of the election.**

41 Sec. 2. There is hereby established in every district that adopts a
42 teacher benefit and classroom enhancement budget a fund which shall
43 be called the teacher benefit and classroom enhancement fund. The fund

1 shall consist of all amounts deposited therein or credited thereto accord-
2 ing to law. Amounts in the teacher benefit and classroom enhancement
3 fund may be expended for any benefits for certified teachers, including,
4 but not limited to, an increase in salary and any funds remaining may be
5 used for classroom enhancement. Any unexpended and unencumbered
6 cash balance remaining in the teacher benefit and classroom enhance-
7 ment fund of a district at the conclusion of any school year in which a
8 teacher benefit and classroom enhancement budget is adopted may be
9 maintained in such fund until budgeted and expended in a succeeding
10 school year.

11 Sec. 3. (a) In each school year, the board of every district that has
12 adopted a teacher benefit and classroom enhancement budget may levy
13 an ad valorem tax on the taxable tangible property of the district for the
14 purpose of financing that portion of the district's teacher benefit and
15 classroom enhancement budget which is not financed from any other
16 source provided by law.

17 (b) The proceeds from the tax levied by a district under authority of
18 this section shall be deposited in the teacher benefit and classroom en-
19 hancement fund of the district.

20 (c) No district shall proceed under K.S.A. 79-1964, 79-1964a or 79-
21 1964b, and amendments thereto.

22 Sec. 4. (a) (1) For the purpose of financing all or a portion of a dis-
23 trict's teacher benefit and classroom enhancement budget in order to
24 reduce or eliminate reliance of the district upon revenue received from
25 property taxation, the board of any district that has adopted a teacher
26 benefit and classroom enhancement budget may submit the question of
27 imposing a school district retailers' sales tax to the electors of such district
28 at an election called and held thereon.

29 (2) The board of any district proposing to adopt a retailers' sales tax
30 shall give notice of its intention to submit such proposition for approval
31 by the electors in the manner required by K.S.A. 10-120, and amend-
32 ments thereto. The notices shall state the time of the election and the
33 rate and effective date of the proposed tax. If a majority of the electors
34 voting thereon at such election fail to approve the proposition, such prop-
35 osition may be resubmitted under the conditions and in the manner pro-
36 vided in this section for submission of the proposition. If a majority of
37 the electors voting thereon at such election shall approve the levying of
38 such tax, the board of such district shall provide by resolution for the levy
39 of the tax. Any repeal of such tax or any reduction or increase in the rate
40 thereof, within the limits prescribed by subsection (b) shall be accom-
41 plished in the manner provided herein for the adoption and approval of
42 such tax except that the repeal of any such retailers' sales tax may be
43 accomplished by the adoption of a resolution so providing. **Except as**

1 **provided further, in any election held pursuant to this section, no**
2 **school district funds shall be expended to promote or reject such**
3 **school district tax. The school district may print and distribute a**
4 **two-page informational document concerning such election 14**
5 **days prior to the date of the election.**

6 (b) (1) The rate of any school district retailers' sales tax shall be fixed
7 in the amount of .125%, .25%, .5%, .75% or 1% which amount shall be
8 determined by the board of the district.

9 (2) The board of a district levying a retailers' sales tax is hereby pro-
10 hibited from administering or collecting such tax locally, but shall utilize
11 the services of the state department of revenue to administer, enforce
12 and collect such tax. Such tax shall be identical in its application, and
13 exemptions therefrom, to the Kansas retailers' sales tax act and all laws
14 and administrative rules and regulations of the state department of rev-
15 enue relating to the Kansas retailers' sales tax shall apply to such school
16 district sales tax insofar as such laws and rules and regulations may be
17 made applicable. The state director of taxation is hereby authorized to
18 administer, enforce and collect such school district sales taxes and to
19 adopt such rules and regulations as may be necessary for the efficient and
20 effective administration and enforcement thereof.

21 (3) Upon receipt of a certified copy of a resolution authorizing the
22 levy of a school district retailers' sales tax, the state director of taxation
23 shall cause such taxes to be collected within or outside the boundaries of
24 such district at the same time and in the same manner provided for the
25 collection of the state retailers' sales tax. All moneys collected by the
26 director of taxation under the provisions of this section shall be credited
27 to a school district retailers' sales tax fund which fund is hereby estab-
28 lished in the state treasury. Any refund due on any school district retailers'
29 sales tax collected pursuant to this section shall be paid out of the sales
30 tax refund fund and reimbursed by the director of taxation from collec-
31 tions of school district retailers' sales tax revenue. All school district re-
32 tailers' sales tax revenue collected within any school district pursuant to
33 this section shall be apportioned and remitted at least quarterly by the
34 state treasurer, on instruction from the director of taxation, to the trea-
35 surer of such school district.

36 (4) The director of taxation shall provide, upon request by the board
37 of a district levying a school district retailers' sales tax, a monthly report
38 identifying each retailer having a place of business in the district and
39 setting forth the amount of such tax remitted by each retailer during the
40 preceding month. Such report shall be made available to the board within
41 a reasonable time after it has been requested from the director of taxation.
42 The director of taxation shall be allowed to assess a reasonable fee for the
43 issuance of such report. Information received by any such board pursuant

1 to this provision shall be confidential, and it shall be unlawful for any
2 member or employee of such board to divulge any such information in
3 any manner. Any violation of this provision by any such member or em-
4 ployee is a class B misdemeanor, and such member or employee shall be
5 dismissed from office.

6 (c) For the purpose of levying taxes pursuant to this section, there is
7 hereby specifically conferred upon the board of any district the power
8 and authority to impose taxes upon services rendered outside the bound-
9 aries of the district by retailers having a place of business located within
10 such district.

11 (d) All retail transactions consummated within a district having a re-
12 tailers' sales tax, which transactions are subject to the Kansas retailers'
13 sales tax, shall also be subject to a school district retailers' sales tax. Except
14 as hereinafter provided, all retail sales, for the purpose of this section,
15 shall be considered to have been consummated at the place of business
16 of the retailer. In the event the place of business of a retailer is doubtful
17 the place or places at which the retail sales are consummated for the
18 purposes of this section shall be determined under rules and regulations
19 adopted by the secretary of revenue which rules and regulations shall be
20 considered with state and federal law insofar as applicable. Retail sales
21 involving the use, consumption or furnishing of gas, water, electricity and
22 heat, for the purposes of this section, shall be considered to have been
23 consummated at the situs of the user or recipient thereof, and retail sales
24 involving the use or furnishing of telephone service or services taxed un-
25 der subsection (k) of K.S.A. 79-3603, and amendments thereto, shall be
26 considered to have been consummated at the situs of the subscriber billed
27 therefor. Retail sales involving the leasing of telecommunication or data
28 processing equipment commonly used in connection with telephone serv-
29 ices shall be considered to have been consummated at the situs of the
30 lessee. Retail sales involving the furnishing of services taxable under sub-
31 sections (p), (q) and (r) of K.S.A. 79-3603, and amendments thereto,
32 pursuant to a contract under which the sale of such services and the
33 furnishing of tangible personal property exceeds \$10,000 per contract per
34 contractor shall be considered to have been consummated at the situs
35 where such services are performed. The director of taxation is hereby
36 authorized to request and receive from any retailer or from any board
37 levying the tax such information as may be reasonably necessary to de-
38 termine the liability of retailers for any school district sales tax. The col-
39 lection of any school district sales tax authorized at a primary or general
40 election shall commence on the first day of the calendar quarter next
41 following the 30th day after the date of the election authorizing the levy
42 of such tax. The collection of any sales tax of a school district approved
43 at any other election shall commence on the first day of the calendar

1 quarter next following the 60th day after the date of the election author-
2 izing the levy of such tax.

3 (e) For the purpose of determining the situs of installation, mainte-
4 nance, servicing and repair services taxable under the provisions of this
5 section, the place of business of the retailer of such services shall be the
6 office or other location from which such retailer does business. Such
7 location may be established by determining the location where sales or
8 service personnel report or at which mail is received, orders are taken,
9 telephone service is listed or the consideration of any other relevant fac-
10 tors established by rules and regulations of the secretary of revenue. If
11 the place of business of a retailer of services is located within the bound-
12 aries of a district imposing a retailers' sales tax, services performed by
13 such retailer are subject to the tax regardless of whether the service is
14 performed within or outside the boundaries of the district. If there is no
15 fixed or determinable place of business for any retailer, other than a re-
16 tailer having its only place or places of business in another state, the place
17 of business of such retailer shall be deemed to be the place where the
18 services are performed.

19 (f) All revenue received from a school district retailers' sales tax im-
20 posed pursuant to this section shall be expended only for the purposes
21 for which a property tax may be levied pursuant to section 3, and amend-
22 ments thereto. Any such tax levy imposed by the board of a school district
23 upon taxable tangible property located within the district shall be reduced
24 by an amount equivalent to the amount of revenue distributed for use by
25 the board pursuant to this section.

26 **Sec. 5. K.S.A. 2001 Supp. 72-6407 is hereby amended to read**
27 **as follows: 72-6407. (a) "Pupil" means any person who is regularly**
28 **enrolled in a district and attending kindergarten or any of the**
29 **grades one through 12 maintained by the district or who is regu-**
30 **larly enrolled in a district and attending kindergarten or any of**
31 **the grades one through 12 in another district in accordance with**
32 **an agreement entered into under authority of K.S.A. 72-8233, and**
33 **amendments thereto, or who is regularly enrolled in a district and**
34 **attending special education services provided for preschool-aged**
35 **exceptional children by the district. Except as otherwise provided**
36 **in this subsection, a pupil in attendance full time shall be counted**
37 **as one pupil. A pupil in attendance part time shall be counted as**
38 **that proportion of one pupil (to the nearest $\frac{1}{10}$ that the pupil's**
39 **attendance bears to full-time attendance. A pupil attending kin-**
40 **dergarten shall be counted as $\frac{1}{2}$ pupil. A pupil enrolled in and**
41 **attending an institution of postsecondary education which is au-**
42 **thorized under the laws of this state to award academic degrees**
43 **shall be counted as one pupil if the pupil's postsecondary educa-**

1 tion enrollment and attendance together with the pupil's attend-
2 ance in either of the grades 11 or 12 is at least $\frac{5}{6}$ time, otherwise
3 the pupil shall be counted as that proportion of one pupil (to the
4 nearest $\frac{1}{10}$) that the total time of the pupil's postsecondary edu-
5 cation attendance and attendance in grade 11 or 12, as applicable,
6 bears to full-time attendance. A pupil enrolled in and attending an
7 area vocational school, area vocational-technical school or ap-
8 proved vocational education program shall be counted as one pupil
9 if the pupil's vocational education enrollment and attendance to-
10 gether with the pupil's attendance in any of grades nine through
11 12 is at least $\frac{5}{6}$ time, otherwise the pupil shall be counted as that
12 proportion of one pupil (to the nearest $\frac{1}{10}$) that the total time of
13 the pupil's vocational education attendance and attendance in any
14 of grades nine through 12 bears to full-time attendance. A pupil
15 enrolled in a district and attending special education and related
16 services, except special education and related services for pre-
17 school-aged exceptional children, provided for by the district shall
18 be counted as one pupil. A pupil enrolled in a district and attending
19 special education and related services for preschool-aged excep-
20 tional children provided for by the district shall be counted as $\frac{1}{2}$
21 pupil. A preschool-aged at-risk pupil enrolled in a district and re-
22 ceiving services under an approved at-risk pupil assistance plan
23 maintained by the district shall be counted as $\frac{1}{2}$ pupil. A pupil in
24 the custody of the secretary of social and rehabilitation services
25 and enrolled in unified school district No. 259, Sedgwick county,
26 Kansas, but housed, maintained, and receiving educational serv-
27 ices at the Judge James V. Riddel Boys Ranch, shall be counted as
28 two pupils. A pupil residing at the Flint Hills job corps center shall
29 not be counted. A pupil confined in and receiving educational serv-
30 ices provided for by a district at a juvenile detention facility shall
31 not be counted. A pupil enrolled in a district but housed, main-
32 tained, and receiving educational services at a state institution
33 shall not be counted.

34 (b) "Preschool-aged exceptional children" means exceptional
35 children, except gifted children, who have attained the age of
36 three years but are under the age of eligibility for attendance at
37 kindergarten.

38 (c) "At-risk pupils" means pupils who are eligible for free
39 meals under the national school lunch act and who are enrolled in
40 a district which maintains an approved at-risk pupil assistance
41 plan.

42 (d) "Preschool-aged at-risk pupil" means an at-risk pupil who
43 has attained the age of four years, is under the age of eligibility

1 for attendance at kindergarten, and has been selected by the state
2 board in accordance with guidelines consonant with guidelines
3 governing the selection of pupils for participation in head start
4 programs. The state board shall select not more than 3,756 pre-
5 school-aged at-risk pupils to be counted in the 2001-02 school year
6 and not more than 5,500 preschool-aged at-risk pupils to be
7 counted in any school year thereafter.

8 (e) “Enrollment” means, for districts scheduling the school
9 days or school hours of the school term on a trimestral or quarterly
10 basis, the number of pupils regularly enrolled in the district on
11 September 20 plus the number of pupils regularly enrolled in the
12 district on February 20 less the number of pupils regularly en-
13 rolled on February 20 who were counted in the enrollment of the
14 district on September 20; and for districts not hereinbefore spec-
15 ified, the number of pupils regularly enrolled in the district on
16 September 20. Notwithstanding the foregoing, if enrollment in a
17 district in any school year has decreased from enrollment in the
18 preceding school year, enrollment of the district in the current
19 school year means whichever is the greater of (1) enrollment in
20 the preceding school year minus enrollment in such school year of
21 preschool-aged at-risk pupils, if any such pupils were enrolled,
22 plus enrollment in the current school year of preschool-aged at-
23 risk pupils, if any such pupils are enrolled, or (2) the sum of en-
24 rollment in the current school year of preschool-aged at-risk pu-
25 pils, if any such pupils are enrolled and the average (mean) of the
26 sum of (A) enrollment of the district in the current school year
27 minus enrollment in such school year of preschool-aged at-risk pu-
28 pils, if any such pupils are enrolled and (B) enrollment in the pre-
29 ceding school year minus enrollment in such school year of pre-
30 school-aged at-risk pupils, if any such pupils were enrolled and (C)
31 enrollment in the school year next preceding the preceding school
32 year minus enrollment in such school year of preschool-aged at-
33 risk pupils, if any such pupils were enrolled.

34 (f) “Adjusted enrollment” means enrollment adjusted by add-
35 ing at-risk pupil weighting, program weighting, low enrollment
36 weighting, if any, correlation weighting, if any, school facilities
37 weighting, if any, ancillary school facilities weighting, if any, spe-
38 cial education and related services weighting, and transportation
39 weighting to enrollment.

40 (g) “At-risk pupil weighting” means an addend component as-
41 signed to enrollment of districts on the basis of enrollment of at-
42 risk pupils.

43 (h) “Program weighting” means an addend component as-

1 signed to enrollment of districts on the basis of pupil attendance
2 in educational programs which differ in cost from regular educa-
3 tional programs.

4 (i) “Low enrollment weighting” means an addend component
5 assigned to enrollment of districts having under 1,725 enrollment
6 on the basis of costs attributable to maintenance of educational
7 programs by such districts in comparison with costs attributable to
8 maintenance of educational programs by districts having 1,725 or
9 over enrollment.

10 (j) “School facilities weighting” means an addend component
11 assigned to enrollment of districts on the basis of costs attributable
12 to commencing operation of new school facilities. School facilities
13 weighting may be assigned to enrollment of a district only if the district
14 has adopted a local option budget and budgeted therein the total amount
15 authorized for the school year. School facilities weighting may be as-
16 signed to enrollment of the district only in the school year in which
17 operation of a new school facility is commenced and in the next
18 succeeding school year.

19 (k) “Transportation weighting” means an addend component
20 assigned to enrollment of districts on the basis of costs attributable
21 to the provision or furnishing of transportation.

22 (l) “Correlation weighting” means an addend component as-
23 signed to enrollment of districts having 1,725 or over enrollment
24 on the basis of costs attributable to maintenance of educational
25 programs by such districts as a correlate to low enrollment weight-
26 ing assigned to enrollment of districts having under 1,725
27 enrollment.

28 (m) “Ancillary school facilities weighting” means an addend
29 component assigned to enrollment of districts to which the provi-
30 sions of K.S.A. 2001 Supp. 72-6441, and amendments thereto, ap-
31 ply on the basis of costs attributable to commencing operation of
32 new school facilities. Ancillary school facilities weighting may be
33 assigned to enrollment of a district only if the district has levied a
34 tax under authority of K.S.A. 2001 Supp. 72-6441, and amend-
35 ments thereto, and remitted the proceeds from such tax to the state
36 treasurer. Ancillary school facilities weighting is in addition to as-
37 signment of school facilities weighting to enrollment of any district
38 eligible for such weighting.

39 (n) “Juvenile detention facility” means any community juvenile
40 corrections center or facility, the Forbes Juvenile Attention Facil-
41 ity, the Sappa Valley Youth Ranch of Oberlin, Salvation Army/Koch
42 Center Youth Services, the Clarence M. Kelley Youth Center, the
43 Clarence M. Kelley Transitional Living Center, Trego County Se-

1 cure Care Center, St. Francis Academy at Atchison, St. Francis
2 Academy at Ellsworth, St. Francis Academy at Salina, St. Francis
3 Center at Salina, King’s Achievement Center, and Liberty Juvenile
4 Services and Treatment.

5 (o) “Special education and related services weighting” means
6 an addend component assigned to enrollment of districts on the
7 basis of costs attributable to provision of special education and
8 related services for pupils determined to be exceptional children.

9 **Sec. 6. K.S.A. 2001 Supp. 72-6407 is hereby repealed.**

10 Sec. ~~5~~ 7. This act shall take effect and be in force from and after its
11 publication in the statute book.

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