

HOUSE BILL No. 2181

By Committee on Education

2-4

AN ACT concerning school districts; enacting the school district budget law; amending K.S.A. 12-1765, 12-2615, 44-505e, 72-8415a, 75-4322, 75-4330, 75-4332, 75-6110, 79-1808, 79-2925, 79-2926 and 79-2927 and K.S.A. 2002 Supp. 75-37,125 and repealing the existing sections; also repealing K.S.A. 72-8204a.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) Sections 1 through 10, and amendments thereto, shall be known and may be cited as the school district budget law.

(b) The school district budget law shall apply to all school districts.

(c) The provisions of this section shall take effect and be in force from and after January 1, 2005.

New Sec. 2. (a) As used in the school district budget law:

(1) "Board" means the board of education of a school district.

(2) "Fund" means any fund of a school district established, or required to be established, by law and any other fund established by the board.

(3) "Budget" means the budget of the school as a whole.

(4) "Sub-budget" means a budget for each building in a school district.

(5) "Budget summary" means a summary of the estimated expenditures and the estimated revenue to be received during the ensuing school year and the source of such revenue.

(6) "School building" means any building or structure operated and maintained by the board.

(7) "District-wide purpose or program" means an expenditure for a purpose or program not associated with a single school building including, but not limited to, transportation, food service, adult education, parent education, summer school, limited English proficient pupil education and driver training.

(8) "Special purpose" means a purpose not directly related to the operation of school buildings or a district-wide purpose or program, including, but not limited to, expenditures for the payment of bonds and interest thereon, judgments, special assessments and textbooks.

(9) "Off-site administration" means school district personnel associ-

1 ated with the supervision of the district and district-wide purposes or
2 programs and special purpose programs including, but not limited to, the
3 board, superintendent, associate superintendent, directors, assistant di-
4 rectors and attorneys and the support staff to such personnel.

5 (10) "Director" means the director of accounts and reports.

6 (11) "County clerk" means the county clerk of the home county of
7 each school district.

8 (b) The provisions of this section shall take effect and be in force
9 from and after January 1, 2005.

10 New Sec. 3. (a) The director in consultation with the state board of
11 education shall prepare and prescribe forms for the annual budgets and
12 sub-budgets of all school districts. Such forms shall show the information
13 required by the school district budget law or other state or federal law
14 which is necessary and proper to disclose complete information as to the
15 financial condition of such school district, and the receipts and expendi-
16 tures thereof, both past and anticipated.

17 The budget form also shall show as separate items estimated expend-
18 itures for district-wide purposes or programs, special purpose, and off-
19 site administration and the estimated revenue to be received for such
20 expenditures, with the amount estimated to be received from each source
21 separately stated.

22 (b) In addition to the information required by subsection (a), the sub-
23 budget forms for each school building shall show as separate items that
24 portion of estimated expenditures for district-wide purposes and pro-
25 grams and special purposes and the revenues for such expenditures and
26 the source of such revenue that are attributable to such school building.

27 The sub-budget form shall be designed to disclose for each school
28 building the following:

29 (1) The number of persons employed at such building and the em-
30 ployment category of such persons.

31 (2) Salaries.

32 (3) Fiscal services, including, but not limited to, FICA, health insur-
33 ance, life insurance, unemployment compensation and workers
34 compensation.

35 (4) Operating, maintenance and repair expenses.

36 (5) Utilities.

37 (6) Supplies and equipment.

38 (7) The anticipated number of regular students enrolled, if
39 applicable.

40 (8) The anticipated number of special education students enrolled, if
41 applicable.

42 (9) The number of classrooms included in the school building in-
43 cluding an auditorium and gymnasium, if applicable.

1 (10) The pupil/teacher ratio for regular students, if applicable.

2 (11) The pupil/teacher ratio for special education students, if
3 applicable.

4 (12) The square footage of the school building.

5 (13) Any other information required by law.

6 (c) In addition to the budget and sub-budget forms, the director shall
7 prepare and prescribe a budget summary form.

8 (d) All forms required by this section and tax levy forms shall be
9 printed by the division of printing in such quantity as the director re-
10 quires. The director shall provide such forms to the clerk of the board of
11 each school district.

12 (e) On or before January 15, 2004, the director shall submit to the
13 legislature for approval a copy of the budget and sub-budget forms pre-
14 scribed pursuant to subsection (a). Such forms shall be deemed approved
15 unless disapproved by concurrent resolution.

16 New Sec. 4. (a) On or before June 30 of each year, the board shall
17 prepare in writing on forms furnished by the director, the budget and
18 sub-budgets itemized and classified by fund and showing amounts to be
19 raised by taxation and from other sources for the ensuing budget year.
20 The budget and sub-budgets shall show in parallel columns all amounts
21 and items to be expended for the ensuing budget year and the amounts
22 appropriated for corresponding or other items during the current budget
23 year and amounts expended for corresponding or other items during the
24 preceding budget year. The budget and sub-budgets for each fund shall
25 not include any item for sundry or miscellaneous purposes in excess of
26 10% of the total.

27 (b) The budget and sub-budgets shall show in parallel columns the
28 amount of revenue actually received from taxation and from other
29 sources, with the amount from each source separately stated for the pre-
30 ceeding budget year and the amount actually received and estimated to be
31 received from taxation and from sources other than direct taxation with
32 the amount for each source separately stated for the current budget year.
33 The budget and sub-budgets also shall show the amount estimated to be
34 received during the ensuing budget year, with the amount estimated to
35 be received from each source separately stated. Except as provided by
36 subsection (c), the budget of expenditures for each fund shall balance
37 with the budget of revenues for such fund and that portion of the budget
38 of revenues to be derived from ad valorem property taxation shall not
39 exceed the amount of tax which can be raised by any fund limit or aggre-
40 gate limit placed upon such fund.

41 (c) When preparing the budget and sub-budgets for the ensuing
42 budget year of the school district, the board shall budget to expend only
43 the amount estimated to be spent from each fund of the school district.

1 Whenever it is otherwise authorized by law that unexpended moneys
2 in a fund of a school district may be carried forward into such fund for
3 the next budget year, the budget and sub-budgets of the school district
4 shall reflect any ending balance in such fund which the school district
5 estimates will be carried forward to the next budget year.

6 Nothing in this subsection shall be construed as prohibiting school dis-
7 tricts from spending amounts in excess of the amount estimated for
8 expenditure.

9 (d) In addition to the requirements of subsection (a), the board shall
10 include the revenues and expenditures from federal aid and other grants,
11 gifts and miscellaneous income in the budget and sub-budgets. In order
12 to account for such revenues and expenditures separately, the board shall
13 budget for federal aid and other grants and gifts, other than scholarships,
14 received by the district. Such funds shall not be subject to limitations on
15 the expenditure of moneys in such funds under the school district budget
16 law.

17 (e) The board shall prepare the budget summary furnished by the
18 director.

19 (f) The provisions of this section shall take effect and be in force from
20 and after January 1, 2005.

21 New Sec. 5. (a) Prior to adopting the budget and sub-budgets, the
22 board shall meet for the purpose of answering and hearing objections of
23 taxpayers relating to the proposed budget and sub-budgets and for the
24 purpose of considering amendments to such proposed budget and sub-
25 budgets. The board shall give at least 10 days' notice of the time and place
26 of the meeting by publication in a newspaper of general circulation within
27 the district. Such notice shall include the proposed budget and sub-bud-
28 gets and shall set out all essential items in the budget and sub-budgets
29 except such groupings as designated by the director on a special publi-
30 cation form prescribed by the director and furnished with the regular
31 budget and sub-budget forms.

32 (b) After such hearing, the budget and sub-budgets shall be adopted
33 or amended and adopted as amended, but no levy shall be made until
34 and unless the sub-budgets are prepared and published and the budget
35 is prepared, published and filed. No tax levy shall be invalidated because
36 of any insufficiency, informality, or delay in preparing, publishing and
37 filing the budget and sub-budgets.

38 (c) In addition to the hearing required by subsection (a), the board
39 may hold hearings at any time on any or all sub-budgets.

40 (d) The provisions of this section shall take effect and be in force
41 from and after January 1, 2005.

42 New Sec. 6. (a) Two copies of the budget certificate giving the
43 amount of ad valorem tax to be levied and the total amount of the adopted

1 budget of expenditures by fund, along with itemized budget forms for
2 each fund and proof of publication of the notice of budget and sub-budget
3 hearing containing the budget summary shall be presented to the county
4 clerk within the time prescribed by K.S.A. 79-1801, and amendments
5 thereto. Where action has been taken under any statute to increase the
6 amount of tax to be levied authorized by law, a statement showing the
7 increased amount or tax levy rate voted shall be attached to the budget
8 and sub-budget each year the change is in effect.

9 (b) The county clerk shall make any reductions to the ad valorem tax
10 to be levied, compute the tax levy rates based on the final equalized
11 assessed valuation, and enter such on the budget certificate before at-
12 testing the budget and sub-budget. An attested copy of the budget shall
13 be filed with the director, along with a copy of the tax levy rate summary
14 required of the county treasurer by K.S.A. 79-2002, and amendments
15 thereto.

16 (c) Each fund of the adopted budget and sub-budgets certified to the
17 county clerk shall not exceed the amount of ad valorem tax to be levied
18 and the proposed expenditures of such fund in the proposed budget and
19 sub-budgets as originally published. The board shall not certify an amount
20 of ad valorem taxes to be levied that is in excess of any tax levy rate or
21 amount limitations or any aggregate tax levy limitations. The board, in
22 fixing the amount may take into consideration and make allowance for
23 the taxes which may not be paid, such allowance, however, shall not ex-
24 ceed by more than 5% the percentage of delinquency for the preceding
25 tax year.

26 (d) The county clerk of the home county of each school district, the
27 territory of which is located in more than one county, shall certify the
28 final tax levy rate computed pursuant to K.S.A. 79-1803, and amendments
29 thereto, of such school district to the county clerk of every other county
30 in which a part of the territory of such school district is located.

31 (e) The provisions of this section shall take effect and be in force
32 from and after January 1, 2005.

33 New Sec. 7. (a) If the board determines it is necessary to amend its
34 adopted current budget or sub-budgets during the year in which such
35 budget or sub-budget is in effect, such amendment shall be subject to
36 the same publication, notice and public hearing requirements as is re-
37 quired by the school district budget law, for the adoption of the original
38 budget and sub-budgets. In addition, such published budget or sub-
39 budget shall show any proposed changes in the amount of expenditures,
40 by fund. Any proposed increase in expenditures shall be balanced by
41 previously unbudgeted increases in revenue other than ad valorem prop-
42 erty taxes. A copy of the adopted amended budget or sub-budget shall
43 be filed with the county clerk and with the director.

1 (b) The provisions of this section shall take effect and be in force
2 from and after January 1, 2005.

3 New Sec. 8. (a) The budget and sub-budgets as approved and filed
4 with the county clerk for each year shall be an appropriation for each
5 fund, and the appropriation thus made shall not be used for any other
6 purpose. No money in any fund shall be used to pay for any indebtedness
7 created in excess of the total amount of the adopted budget or sub-budget
8 of expenditures for such fund. Any balance remaining in such fund at the
9 end of the current budget year shall be carried forward to the credit of
10 the fund for the ensuing budget year. The clerk of the school district or
11 a person designated by the board shall open and keep an account of each
12 fund, showing the total amount appropriated for each fund, and shall
13 charge such appropriation with the amount of any indebtedness created
14 at the time such indebtedness is incurred. If any indebtedness is reim-
15 bursed during the current budget year and the reimbursement is in excess
16 of the amount which was shown as reimbursed expense in the budget or
17 sub-budgets of revenues for the current budget year, the charge made
18 shall be reduced by the amount of the reimbursement.

19 Except as provided by law, no part of any fund shall be diverted to any
20 other fund, whether before or after the distribution of taxes by the county
21 treasurer. The county treasurer shall distribute the proceeds of the taxes
22 levied by each school district in the manner provided by K.S.A. 12-1678a,
23 and amendments thereto.

24 (b) The provisions of this section shall take effect and be in force
25 from and after January 1, 2005.

26 New Sec. 9. (a) Except as provided by subsection (b), it shall be
27 unlawful for the board, in any budget year, to create an indebtedness in
28 any manner or in any fund after the total indebtedness created against
29 such fund equals the total amount of the adopted budget and sub-budgets
30 of expenditures for such fund for that budget year. Any indebtedness
31 incurred by the board in excess of such amount shall be void as against
32 such school district.

33 (b) Indebtedness may be created in excess of the total amount of the
34 adopted budget and sub-budgets of expenditures for the current budget
35 year only if (1) payment has been authorized by the voters of the school
36 district, (2) provision has been made for payment by the issuance of bonds
37 or (3) provision has been made for payment by the issuance of no-fund
38 warrants as authorized by law.

39 (c) The provisions of this section shall take effect and be in force
40 from and after January 1, 2005.

41 New Sec. 10. (a) Any member of the board and any other officer or
42 employee of the school district who violates any of the provisions of the
43 school district budget law shall be subject to removal from office or dis-

1 ciplinary action.

2 (b) The provisions of this section shall take effect and be in force
3 from and after January 1, 2005.

4 Sec. 11. On and after January 1, 2005, K.S.A. 12-1765 is hereby
5 amended to read as follows: 12-1765. The governing bodies of all school
6 districts, cities, *and counties and* agencies and departments of the state
7 of Kansas, ~~and all boards of county commissioners now located or which~~
8 ~~may hereafter be located within the county~~ where such public building
9 commission has been created, or all boards of county commissioners that
10 desire to lease space from a county public building commission for de-
11 tention of eligible juveniles, ~~are hereby authorized and empowered to~~
12 ~~may~~ enter into leases without the necessity of any election and without
13 regard to K.S.A. 10-1001 to 10-1122, inclusive, and amendments thereto
14 ~~or to K.S.A. 70-2025 and amendments thereto,~~ *the general budget law or*
15 *the school district budget law* for any period of time not to exceed 50
16 years.

17 Sec. 12. On and after January 1, 2005, K.S.A. 12-2615 is hereby
18 amended to read as follows: 12-2615. (a) The governing body of any city,
19 county or school district may establish by resolution a risk management
20 reserve fund for the purpose of providing moneys to reimburse such city,
21 county or school district, in whole or in part, from insurable losses not
22 otherwise insured. The resolution establishing such risk management re-
23 serve fund shall prescribe the purposes for which moneys in the fund may
24 be used, and any expenditure therefrom shall require the approval of the
25 governing body. Moneys may be paid into such risk management reserve
26 fund from any source which *lawfully* may be ~~lawfully~~ utilized for such
27 purposes, including transfers from the general fund, from any special
28 liability expense fund established in accordance with the provisions of
29 K.S.A. 75-6110, *and amendments thereto*, or from any other fund or grant
30 program account of the governmental unit in reasonable proportion to
31 the estimated cost of self insuring the risk losses covered by such reserve
32 fund. Such fund shall not be subject to the provisions of ~~K.S.A. 70-2025~~
33 ~~to 70-2037, inclusive, and acts amendatory thereof or supplemental~~
34 ~~thereto, except that in making the~~ *the general budget law or the school*
35 *district budget law. In preparing the* budget of such city, county or school
36 district, the amounts credited to and the amount on hand in such reserve
37 fund, and the amount expended therefrom, shall be included in the an-
38 nual budget for the information of the residents. Interest earned on the
39 investment of moneys in such reserve fund shall be credited to such fund.

40 (b) If the governing body of any city, county or school district ~~shall~~
41 ~~determine~~ *determines* on an actuarial basis that money which has been
42 credited to such fund, or any part thereof, is no longer needed for the
43 purposes for which it was established, ~~said~~ *the* governing body may trans-

1 fer such amount not needed to the funds or accounts from which the
2 money was received. Any money so transferred shall be budgeted in ac-
3 cordance with the provisions of ~~K.S.A. 79-2925 to 79-2937, inclusive, and~~
4 ~~acts amendatory thereof or supplemental thereto~~ *the general budget law*
5 *or the school district budget law.*

6 Sec. 13. On and after January 1, 2005, K.S.A. 44-505e is hereby
7 amended to read as follows: 44-505e. A school district, area vocational-
8 technical school or community junior college may act as a self-insurer
9 under the workmen's compensation act. If a school district, area voca-
10 tional-technical school or community junior college elects to act as a self-
11 insurer under that act, the school district, area vocational-technical school
12 or community junior college shall establish a separate fund to be known
13 as the "school workers' compensation reserve fund" for the payment of
14 workmen's compensation claims, judgments and expenses. Any school
15 district or community junior college may transfer moneys from its general
16 fund and any area vocational-technical school may transfer moneys from
17 its operating fund to the school workers' compensation reserve fund as
18 authorized by law. The balance remaining in the reserve fund at the end
19 of the fiscal year shall be carried forward into the reserve fund for suc-
20 ceeding years. Such fund shall not be subject to the provisions of ~~K.S.A.~~
21 ~~79-2925 to 79-2937, inclusive, and acts amendatory thereof and supple-~~
22 ~~mental thereto, except that in making~~ *the general budget law or the school*
23 *district budget law. In preparing* the budget, the amounts credited to and
24 the amount on hand in such reserve fund, and the amount expended
25 therefrom, shall be included in the annual budget for the information of
26 the residents. Interest earned on the investment of moneys in such fund
27 shall be credited to such fund. Payments from ~~said~~ *the* school workers'
28 compensation reserve fund may be made to agents for the school district
29 who have contracted to service and administer all or a portion of the
30 school district's workers' compensation program.

31 If the school district, area vocational-technical school or community
32 junior college ~~shall determine~~ *determines* on an actuarial basis that money
33 which has been credited to such fund, or any part thereof, is no longer
34 needed for the purposes for which it was established, the school district,
35 area vocational-technical school or community junior college may transfer
36 such amount not needed to the funds or accounts from which the money
37 was received. Any money so transferred shall be budgeted in accordance
38 with the provisions of ~~K.S.A. 79-2925 to 79-2937, inclusive, and acts~~
39 ~~amendatory thereof or supplemental thereto~~ *the general budget law or*
40 *the school district budget law.*

41 Sec. 14. On and after January 1, 2005, K.S.A. 72-8415a is hereby
42 amended to read as follows: 72-8415a. (a) If the board of education of
43 any school district or the board of trustees of any community college

1 elects to act as a self-insurer for the provision of health care services or
2 disability income benefits, or a group life insurance benefit, or all three,
3 as authorized by K.S.A. 72-8414, and amendments thereto, ~~it shall by~~
4 ~~resolution~~ *the board shall* create a separate health care services reserve
5 fund or disability income benefits reserve fund, or a separate group life
6 insurance benefit reserve fund, or all three, in the budget of the school
7 district or community college, whichever is applicable, ~~which shall be~~
8 ~~reserve funds~~. *Such fund shall be a reserve fund* for the payments of
9 claims, judgments and expenses for health care services or disability in-
10 come benefits or group life insurance benefits, whichever is applicable.
11 Any balance remaining in any such reserve fund at the end of the fiscal
12 year shall be carried forward into that reserve fund for succeeding fiscal
13 years. No such fund shall be subject to the provisions of ~~K.S.A. 79-2925~~
14 ~~through 79-2937, and amendments thereto, except that~~ *the general*
15 *budget law or the school district budget law*. In preparing the budget of
16 such school district or community college, the amounts credited to and
17 the amount on hand in any such reserve fund, and the amount expended
18 therefrom shall be included in the annual budget for the information of
19 the residents. Interest earned on the investment of moneys in any such
20 fund shall be credited to that fund.

21 (b) In the discretion of the board of education or the board of trust-
22 ees, ~~#~~ *the board* may enter into a trust agreement with any corporate
23 entity having the powers of a trust company within the state of Kansas,
24 and may transfer from time to time amounts held in the health care
25 services reserve fund or the disability income benefits reserve fund, or
26 the group life insurance benefit reserve fund, or all three, to the custody
27 of the trustee for safeguarding and investment. Any such trust agreement
28 may grant the trustee the power to exercise such fiscal management and
29 administrative control as may be necessary for the lawful and efficient
30 management of any such amounts transferred to the custody of the
31 trustee.

32 Sec. 15. On and after January 1, 2005, K.S.A. 2002 Supp. 75-37,125
33 is hereby amended to read as follows: 75-37,125. (a) As used in this act:

34 (1) "Municipality" shall have the meaning ascribed thereto in K.S.A.
35 75-1117, and amendments thereto.

36 (2) "State agency" shall have the meaning ascribed thereto in K.S.A.
37 75-3049, and amendments thereto.

38 (3) "Energy conservation measure" means an energy study, audit,
39 improvement or equipment which is designed to provide energy and op-
40 erational cost savings at least equivalent to the amount expended by a
41 participating municipality or state agency for such energy study, audit,
42 improvement or equipment over a period of not more than 20 years after
43 the date such improvement or equipment is installed or becomes oper-

1 ational, as the case may be.

2 (b) Subject to the provisions of subsection (c), a municipality or state
3 agency may enter into a contract or lease-purchase agreement for an
4 energy conservation measure which meets the criteria of this section. In
5 addition to any other authority provided by law, a municipality may solicit
6 proposals to contract for an energy conservation measure by advertising
7 for proposals and qualifications in a newspaper of general circulation or
8 the Kansas register, and by sending requests for proposals to at least three
9 vendors and negotiating a lease-purchase agreement with one or more
10 vendors submitting a proposal thereto. Negotiations entered into pursu-
11 ant to this section with individual vendors shall not be subject to the
12 provisions of the open meetings act. After an agreement has been exe-
13 cuted, the agreement and all proposals from vendors shall be open re-
14 cords available for public inspection in accordance with the open records
15 act. A state agency may utilize the procedures prescribed in K.S.A. 75-
16 37,102, and amendments thereto, by the procurement negotiating com-
17 mittee to negotiate and contract for energy conservation measures. Each
18 state agency shall provide copies of plans of the proposed energy conser-
19 vation measure to the secretary of administration, or such secretary's des-
20 ignee, for review. No state agency may enter into a contract for an energy
21 conservation measure unless such measure has been approved by the
22 secretary of administration. Plans submitted under this section shall be
23 retained and maintained by the secretary of administration.

24 (c) Before executing any contract or lease-purchase agreement under
25 this section, the energy conservation contractor shall provide the munic-
26 ipality or state agency with plans for the proposed energy conservation
27 measures prepared by an engineer licensed to practice in Kansas. The
28 energy conservation contractor *also* shall ~~also~~ provide a report of the cal-
29 culations showing the estimated energy and operational cost savings that
30 would result from the proposed energy conservation measures. Notwith-
31 standing any provision contained in K.S.A. 72-8225, and amendments
32 thereto, the board of education of any school district may enter into a
33 contract or lease-purchase agreement for an energy conservation measure
34 for a period exceeding 10 years. Municipalities and state agencies may
35 include a provision in the contract with an entity providing the energy
36 conservation measure requiring such entity to guarantee that the actual
37 amount of savings of energy and operational costs attributable to the
38 energy conservation measure be not less than the cost of the energy con-
39 servation measure over the time specified including financing costs.

40 (d) Within the limits of appropriations available therefor, the state
41 corporation commission is authorized to provide grants for engineering
42 studies and energy conservation measures for municipalities and state
43 agencies.

1 (e) The secretary of administration may provide administrative sup-
2 port and resources available under the facility conservation improvement
3 program under K.S.A. 75-37,111 *et seq.*, and amendments thereto, as
4 requested by municipalities and state agencies for purposes of this sec-
5 tion. The secretary of administration may fix, charge and collect reason-
6 able fees for any administrative support and resources or other services
7 provided by the secretary under this subsection.

8 (f) The provisions of the cash basis law ~~and K.S.A. 70-2925, and~~
9 ~~amendments thereto, general budget law and the school district budget~~
10 ~~law~~, shall not apply to any contract or lease-purchase agreement entered
11 into pursuant to this section.

12 Sec. 16. On and after January 1, 2005, K.S.A. 75-4322 is hereby
13 amended to read as follows: 75-4322. As used in this act:

14 (a) "Public employee" means any person employed by any public
15 agency, except those persons classed as supervisory employees, profes-
16 sional employees of school districts, as defined by subsection (c) of K.S.A.
17 72-5413, *and amendments thereto* elected and management officials, and
18 confidential employees.

19 (b) "Supervisory employee" means any individual who normally per-
20 forms different work from ~~his subordinates~~ *employees subordinate to such*
21 *person*, having authority, in the interest of the employer, to hire, transfer,
22 suspend, lay off, recall, promote, discharge, assign, reward, or discipline
23 other employees, or responsibly to direct them, or to adjust their griev-
24 ances, or effectively to recommend a preponderance of such actions, if
25 in connection with the foregoing the exercise of such authority is not of
26 a merely routine or clerical nature, but requires the use of independent
27 judgment. A memorandum of agreement may provide for a definition of
28 "supervisory employees" as an alternative to the definition herein.

29 (c) "Confidential employee" means any employee whose unrestricted
30 access to confidential personnel files or other information concerning the
31 administrative operations of a public agency, or whose functional respon-
32 sibilities or knowledge in connection with the issues involved in the meet
33 and confer process would make ~~his~~ membership in the same employee
34 organization as other employees incompatible with ~~his~~ *such employee's*
35 official duties.

36 (d) "Professional employee" includes any employee: (1) Whose work
37 ~~is~~ predominantly *is* intellectual and varied in character as opposed to
38 routine mental, manual, mechanical, or physical work; involves the con-
39 sistent exercise of discretion and judgment; requires knowledge of an
40 advanced type in a field of science or learning customarily acquired by
41 prolonged study in an institution of higher learning; or (2) who has com-
42 pleted courses of prolonged study as described in paragraph (1) of this
43 subsection, and is performing related work under the supervision of a

1 professional person in order to qualify as a professional employee as de-
2 fined in paragraph (1) of this subsection; or (3) attorneys-at-law or any
3 other person who is registered as a qualified professional by a board of
4 registration or other public body established for such purposes under the
5 laws of this state.

6 (e) “Elected and management officials” means any elective official
7 and any appointed officer charged by law with major administrative and
8 management responsibilities.

9 (f) “Public agency” or “public employer” means every governmental
10 subdivision, including any county, township, city, school district, special
11 district, board, commission; or instrumentality or other similar unit whose
12 governing body exercises similar governmental powers; and the state of
13 Kansas and its state agencies.

14 (g) “Governing body” means the legislative body, policy board or
15 other authority of the public employer possessing legislative or policy-
16 making responsibilities pursuant to the constitution or laws of this state.

17 (h) “Representative of the public agency” means the chief executive
18 officer of the public employer or ~~his or her~~ *such person’s* designee, except
19 when the governing body provides otherwise, and except in the case of
20 the state of Kansas and its state agencies. Such chief executive shall be
21 for counties, the ~~chairman~~ *chairperson* of the board of county commis-
22 sioners; for cities, the mayor, city manager or city superintendent; for
23 school districts, the president of the board of education; and for other
24 local units, such similar elected or appointed officer. In the case of the
25 state of Kansas and its state agencies, “representative of the public em-
26 ployer” means a team of persons, the head of which shall be a person
27 designated by the secretary of administration and the heads of the state
28 agency or state agencies involved or one person designated by each such
29 state agency head.

30 (i) “Employee organization” means any organization which includes
31 employees of a public agency and which has as one of its primary purposes
32 representing such employees in dealings with that public agency over
33 conditions of employment and grievances.

34 (j) “Recognized employee organization” means an employee organi-
35 zation which has been formally acknowledged by the public agency or
36 certified as representing a majority of the employees of an appropriate
37 unit.

38 (k) “Business agent” means any authorized person who is a full-time
39 official of an employee organization and whose principal duties are to act
40 or to attempt to act for an employee organization (1) in proceedings to
41 meet and confer and other proceedings involving a memorandum of
42 agreement, (2) in servicing existing memorandums of agreement; or (3)
43 in organizing employees into employee organizations.

1 (l) "Board" means the public employee relations board established
2 pursuant to this act.

3 (m) "Meet and confer in good faith" is the process whereby the rep-
4 resentative of a public agency and representatives of recognized employee
5 organizations have the mutual obligation personally to meet and confer
6 in order to exchange freely information, opinions and proposals to en-
7 deavor to reach agreement on conditions of employment.

8 (n) "Memorandum of agreement" means a written memorandum of
9 understanding arrived at by the representatives of the public agency and
10 a recognized employee organization which may be presented to the gov-
11 erning body of a public employer or its statutory representative and to
12 the membership of such organization for appropriate action.

13 (o) "Mediation" means effort by an impartial third party to assist in
14 reconciling a dispute regarding conditions of employment between rep-
15 resentatives of the public agency and recognized employee organizations
16 through interpretation and advice.

17 (p) "Fact-finding" means investigation of such a dispute by an indi-
18 vidual, panel, or board with the fact-finder submitting a report to the
19 parties describing the issues involved. The report shall contain recom-
20 mendations for settlement and may be made public.

21 (q) "Arbitration" means interpretation of the terms of an existing or
22 a new memorandum of agreement or investigation of disputes by an im-
23 partial third party whose decision may or may not be final and binding.
24 Arbitration is advisory when the results are not binding upon the parties;
25 ~~Arbitration~~ *Arbitration* is final and binding when both parties, of their own volition,
26 agree to submit a dispute to, and to abide by the decision of, the impartial
27 third party.

28 (r) "Strike" means an action taken for the purpose of coercing a
29 change in the conditions, rights, privileges or obligations of employment
30 through the failure by concerted action with others to report for duty or
31 to work at usual capability in the performance of the normal duties of
32 employment.

33 (s) "Lockout" means action taken by the public employer to provoke
34 interruptions of or prevent the continuity of work normally and usually
35 performed by the employees for the purpose of coercing the employees
36 into relinquishing rights guaranteed by this act.

37 (t) "Conditions of employment" means salaries, wages, hours of work,
38 vacation allowances, sick and injury leave, number of holidays, retirement
39 benefits, insurance benefits, prepaid legal service benefits, wearing ap-
40 parel, premium pay for overtime, shift differential pay, jury duty and
41 grievance procedures, ~~but~~. Nothing in this act shall authorize the adjust-
42 ment or change of such matters which have been fixed by statute or by
43 the constitution of this state.

1 (u) “Grievance” means a statement of dissatisfaction by a public em-
2 ployee, supervisory employee, employee organization or public employer
3 concerning interpretation of a memorandum of agreement or traditional
4 work practice.

5 (v) “Budget submission date” means (1) for any public employers
6 subject to the *general* budget law ~~in K.S.A. 70-2025 et seq.~~ or the *school*
7 *district budget law*, the date of July 1, and (2) for any other public em-
8 ployer the date fixed by law. “Budget submission date” means, in the case
9 of the state and its state agencies, the date of September 15.

10 (w) “Legislature” means the legislature of the state of Kansas.

11 (x) “State agency” means the same as is ascribed thereto in K.S.A.
12 75-3701 and amendments thereto.

13 Sec. 17. On and after January 1, 2005, K.S.A. 75-4330 is hereby
14 amended to read as follows: 75-4330. (a) The scope of a memorandum
15 of agreement may extend to all matters relating to conditions of employ-
16 ment, except proposals relating to (1) any subject preempted by federal
17 or state law or by a municipal ordinance passed under the provisions of
18 section 5 of article 12 of the Kansas constitution; (2) public employee
19 rights defined in K.S.A. 75-4324 and amendments thereto; (3) public
20 employer rights defined in K.S.A. 75-4326 and amendments thereto; or
21 (4) the authority and power of any civil service commission, personnel
22 board, personnel agency or its agents established by statute, ordinance or
23 special act to conduct and grade merit examinations and to rate candidates
24 in the order of their relative excellence, from which appointments or
25 promotions may be made to positions in the competitive division of the
26 classified service of the public employer served by such civil service com-
27 mission or personnel board. Any memorandum of agreement relating to
28 conditions of employment entered into may be executed for a maximum
29 period of three years, notwithstanding the provisions of the cash-basis law
30 contained in K.S.A. 10-1102 et seq., and amendments thereto, ~~and the~~
31 *general* budget law ~~contained in K.S.A. 70-2025 et seq., and amendments~~
32 ~~thereto~~ and the *school district budget law*.

33 (b) Such memorandum agreement may contain a grievance proce-
34 dure and may provide for the impartial arbitration of any disputes that
35 arise on the interpretation of the memorandum agreement. Such arbitra-
36 tion shall be advisory or final and binding, as determined by the agree-
37 ment, and may provide for the use of a fact-finding board. The public
38 employee relations board is authorized to establish rules for procedure
39 of arbitration in the event the agreement has not established such rules.
40 In the absence of arbitrary and capricious rulings by the fact-finding board
41 during arbitration, the decision of that board shall be final. Judicial review
42 shall be in accordance with the act for judicial review and civil enforce-
43 ment of agency actions.

1 (c) Notwithstanding the other provisions of this section and the act
2 of which this section is a part, when a memorandum of agreement applies
3 to the state or to any state agency, the memorandum of agreement shall
4 not be effective as to any matter requiring passage of legislation or state
5 finance council approval, until approved as provided in this subsection.
6 When executed, each memorandum of agreement shall be submitted to
7 the state finance council. Any part or parts of a memorandum of agree-
8 ment which relate to a matter which can be implemented by amendment
9 of rules and regulations of the secretary of administration or by amend-
10 ment of the pay plan and pay schedules of the state may be approved or
11 rejected by the state finance council, and if approved, shall thereupon be
12 implemented by it to become effective at such time or times as it specifies.
13 Any part or parts of a memorandum of agreement which require passage
14 of legislation for the implementation thereof shall be submitted to the
15 legislature at its next regular session, and if approved by the legislature
16 shall become effective on a date specified by the legislature.

17 Sec. 18. On and after January 1, 2005, K.S.A. 75-4332 is hereby
18 amended to read as follows: 75-4332. (a) Public employers may include
19 in memoranda of agreement concluded with recognized employee organ-
20 izations a provision setting forth the procedures to be invoked in the event
21 of disputes which reach an impasse in the course of meet and confer
22 proceedings. Such memorandum shall define conditions under which an
23 impasse exists, and if the employer is bound by the *general* budget law
24 ~~set forth in K.S.A. 70-2025 et seq. and amendments thereto~~ or *school*
25 *district budget law*, the memorandum shall provide that an impasse is
26 deemed to exist if the parties fail to achieve agreement at least 14 days
27 prior to budget submission date.

28 (b) In the absence of such memorandum of procedures, or upon the
29 failure of such procedures resulting in an impasse, either party may re-
30 quest the assistance of the public employee relations board, or the board
31 may render such assistance on its own motion. In either event, if the
32 board determines an impasse exists in meet and confer proceedings be-
33 tween a public employer and a recognized employee organization, the
34 board shall aid the parties in effecting a voluntary resolution of the dis-
35 pute, and request the appointment of a mediator or mediators, represen-
36 tative of the public, from a list of qualified persons maintained by the
37 secretary of human resources, and such appointment of a mediator or
38 mediators shall be made forthwith by the secretary.

39 (c) All verbal or written information transmitted between any party
40 to a dispute and a mediator conducting the proceeding, or the staff of an
41 approved program under K.S.A. 5-501 *et seq.* and amendments thereto
42 shall be confidential communications. No admission, representation or
43 statement made in the proceeding shall be admissible as evidence or

1 subject to discovery. A mediator shall not be subject to process requiring
2 the disclosure of any matter discussed during the proceedings unless all
3 the parties consent to a waiver. Any party, including the neutral person
4 or staff of an approved program conducting the proceeding, participating
5 in the proceeding has a privilege in any action to refuse to disclose, and
6 to prevent a witness from disclosing, any communication made in the
7 course of the proceeding. The privilege may be claimed by the party or
8 anyone the party authorizes to claim the privilege.

9 (d) The confidentiality and privilege requirements of this section shall
10 not apply to:

11 (1) Information that is reasonably necessary to establish a defense for
12 the mediator or staff of an approved program conducting the proceeding
13 in the case of an action against the mediator or staff of an approved
14 program that is filed by a party to the mediation;

15 (2) any information that the mediator is required to report under
16 K.S.A. 38-1522 and amendments thereto;

17 (3) any information that is reasonably necessary to stop the commis-
18 sion of an ongoing crime or fraud or to prevent the commission of a crime
19 or fraud in the future for which there was an expressed intent to commit
20 such crime or fraud; or

21 (4) any information that the mediator is required to report or com-
22 municate under the specific provisions of any statute or in order to comply
23 with orders of the court.

24 (e) If the impasse persists seven days after the mediators have been
25 appointed, the board shall request the appointment of a fact-finding
26 board of not more than three members, each representative of the public,
27 from a list of qualified persons maintained by the secretary of human
28 resources. The fact-finding board shall conduct a hearing, may administer
29 oaths, and may request the board to issue subpoenas. It shall make written
30 findings of facts and recommendations for resolution of the dispute and,
31 not later than 21 days from the day of appointment, shall serve such
32 findings on the public employer and the recognized employee organiza-
33 tion. The board may make this report public seven days after it is sub-
34 mitted to the parties. If the dispute continues 14 days after the report is
35 submitted to the parties, the report shall be made public.

36 (f) If the parties have not resolved the impasse by the end of a forty-
37 day period, commencing with the appointment of the fact-finding board,
38 or by a date not later than 14 days prior to the budget submission date,
39 whichever date occurs first: (1) The representative of the public employer
40 involved shall submit to the governing body of the public employer in-
41 volved a copy of the findings of fact and recommendations of the fact-
42 finding board, together with the representative's recommendations for
43 settling the dispute; (2) the employee organization may submit to such

1 governing body its recommendations for settling the dispute; (3) the gov-
2 erning body or a duly authorized committee thereof shall forthwith con-
3 duct a hearing at which the parties shall be required to explain their
4 positions; and (4) thereafter, the governing body shall take such action as
5 it deems to be in the public interest, including the interest of the public
6 employees involved. The provisions of this subsection shall not be appli-
7 cable to the state and its agencies and employees.

8 (g) The cost for the mediation and fact-finding services provided by
9 the secretary of human resources upon request of the board shall be
10 borne by the secretary of human resources. All other costs, including that
11 of a neutral arbitrator, shall be borne equally by the parties to a dispute.

12 Sec. 19. On and after January 1, 2005, K.S.A. 75-6110 is hereby
13 amended to read as follows: 75-6110. (a) Payments by municipalities for
14 the cost of providing for its defense and the defense of employees pur-
15 suant to this act and for the payment of claims and other direct and
16 indirect costs resulting from the implementation of this act may be paid
17 from the general or other existing fund of such municipality or from a
18 special liability expense fund established for such purpose pursuant to
19 subsection (b).

20 (b) Whenever the governing body of any municipality ~~shall determine~~
21 *determines* that it is advisable to establish a special fund for the payment
22 of such costs and to establish a reserve therefor, in lieu of paying the same
23 out of the general or other existing fund of the municipality, such gov-
24 erning body may create and establish a special liability expense fund for
25 the payment of such costs and may place therein any moneys received by
26 the municipality from any source whatsoever which may be lawfully util-
27 ized for such purpose including the proceeds of tax levies ~~hereinafter~~
28 ~~authorized and provided~~. Such fund shall not be subject to the provisions
29 of ~~K.S.A. 79-2925 to 79-2937, inclusive, and any acts amendatory thereof~~
30 ~~or supplemental thereto, except that in making~~ *the general budget law or*
31 *the school district budget law. In preparing* the budget of such munici-
32 pality, the amounts credited to and the amount on hand in such special
33 fund, and the amount expended therefrom, shall be included in the an-
34 nual budget for the information of the residents of such municipality.

35 (c) Whenever the governing body of any municipality which is au-
36 thorized by law to levy taxes upon property has established a special li-
37 ability expense fund under the provisions of this section ~~and shall deter-~~
38 ~~mine~~ *determines* that moneys from other sources will be insufficient to
39 pay such costs, the governing body is hereby authorized to levy an annual
40 tax upon all taxable tangible property within the municipality in an
41 amount determined by the governing body to be necessary for such pur-
42 pose and in the case of cities, counties and school districts, to pay a portion
43 of the principal and interest on bonds issued by cities under the authority

1 of K.S.A. 12-1774, and amendments thereto, for the financing of rede-
2 velopment projects ~~upon property located in such county or such school~~
3 ~~district.~~

4 Sec. 20. On and after January 1, 2005, K.S.A. 79-1808 is hereby
5 amended to read as follows: 79-1808. Whenever any taxing subdivision
6 or municipality of the state of Kansas is the owner of real estate against
7 which special assessments are levied by any other taxing subdivision or
8 municipality to pay for public improvements benefiting such real estate,
9 the governing body or officer authorized to levy taxes for the taxing sub-
10 division or municipality owning such real estate ~~shall have authority to~~
11 *may* make such levies as may be necessary to provide funds to pay such
12 special assessments against its property, and interest thereon, and, in the
13 case of cities and counties, to pay a portion of the principal and interest
14 on bonds issued under the authority of K.S.A. 12-1774, and amendments
15 thereto, by cities located in the county and the proceeds thereof shall be
16 placed in a special assessment fund. ~~Said~~ *Such* tax levy shall be separate
17 and in addition to all other levies authorized or limited by law and shall
18 not be subject to the aggregate tax levy limitation prescribed by article
19 19 of chapter 79 of the Kansas Statutes Annotated, ~~or acts amendatory~~
20 ~~thereof or supplemental and amendments~~ *thereto.*

21 Such special assessment fund shall not be subject to the provisions of
22 ~~K.S.A. 79-2025 to 79-2036, inclusive, or acts amendatory thereof or sup-~~
23 ~~plemental thereto, except that in making the general budget law or the~~
24 ~~school district budget law. In preparing the budgets of such taxing sub-~~
25 ~~divisions or municipalities the amounts credited to and the amount on~~
26 ~~hand in, such special assessment fund and the amount expended there-~~
27 ~~from shall be shown thereon for the information of the taxpayers of such~~
28 ~~taxing subdivisions or municipalities.~~

29 Sec. 21. On and after January 1, 2005, K.S.A. 79-2925 is hereby
30 amended to read as follows: 79-2925. (a) ~~This act K.S.A. 79-2925 through~~
31 ~~79-2937, and amendments thereto, shall be known and may be cited as~~
32 ~~the general budget law.~~

33 (b) *Except as provided by this section and the school district budget*
34 *law, the general budget law shall apply to all taxing subdivisions or mu-*
35 *nicipalities of the state, except.*

36 (c) *The general budget law shall not apply to:*

37 (1) Townships in counties having the county road unit system which
38 have an annual expenditure of less than ~~two hundred dollars, \$200.~~

39 (2) Any money received by such taxing subdivision or municipality as
40 a gift or bequest;

41 (3) Any revolving fund ~~set up~~ *established* for the operation of a mu-
42 nicipal airport. Any city, board of park commissioners, or other agency
43 designated and authorized to operate a municipal airport ~~is hereby au-~~

1 ~~authorized to set up~~ *may establish* a revolving fund for use as an operating
2 fund, either out of the budget or out of the receipts from the operation
3 of such airport, in an amount as may be reasonable and necessary as an
4 operating fund for the efficient and business-like operation of such air-
5 port. The financial transactions of ~~said the~~ airport shall be audited in
6 accordance with the minimum standard audit program prescribed by the
7 director of accounts and reports as other municipal funds. Profits arising
8 from the operation of the airport after the payment of all necessary op-
9 erating expenses and the establishment of the revolving fund shall be
10 applied to reduce the tax levy for the budgeted fund under which the
11 operation of such airport is financed;

12 (4) Any special recreation facilities reserve ~~set up~~ *established* by the
13 board of park commissioners in any city for the repair, replacement, or
14 addition to the recreation facilities of such city. The financial transactions
15 of ~~said the~~ recreation facilities shall be audited in accordance with the
16 minimum standard audit program prescribed by the director of accounts
17 and reports as other municipal funds. Profits arising from the coliseum
18 events fund and the coliseum concessions, after the payment of all nec-
19 essary expenses, and the establishment and maintenance of such special
20 recreation facilities reserve shall be applied to reduce the tax levy for the
21 budget fund under which the operation of such recreation facilities is
22 financed; ~~and~~.

23 (5) Any special recreation facilities fund ~~set up~~ *established* by the
24 board of county commissioners for the operation of a county coliseum.
25 The financial transactions of the special recreation facilities fund shall be
26 audited in accordance with the minimum standard audit program pre-
27 scribed by the director of accounts and reports as other municipal funds.
28 Moneys derived from the operation of a county coliseum and deposited
29 in the special recreation facilities fund shall be applied to reduce the tax
30 levy for the budget fund under which the operation of such county coli-
31 seum is financed.

32 ~~(b) Whenever the term "fund" is used in this act it is intended to~~
33 ~~have reference to those funds which are~~

34 *(d) As used in the budget law:*

35 *(1) "Fund" means any fund* authorized by statute to be established.
36 "Fund" is not intended to mean the individual budgeted items of a fund,
37 but is intended to have reference to the total of such individual items.

38 ~~(c) Whenever the term "director" is used in this act it shall mean the~~
39 ~~state director of property valuation.~~

40 *(2) "Director" means the director of accounts and reports.*

41 Sec. 22. On and after January 1, 2005, K.S.A. 79-2926 is hereby
42 amended to read as follows: 79-2926. The director ~~of accounts and reports~~
43 shall prepare and prescribe forms for the annual budgets of all taxing

1 subdivisions or municipalities of the state. Such forms shall show the
2 information required by this act and by K.S.A. 1973 Supp. 79-4401 *et seq.*
3 ~~[*], general budget law which is necessary and proper to fully disclose~~
4 complete information as to the financial condition of such taxing subdivi-
5 sion or municipality, and the receipts and expenditures thereof, both
6 past and anticipated. All such budget and tax levy forms shall be printed
7 by the ~~director~~ *division* of printing and in such quantity as required by
8 the director. ~~The director shall deliver the forms for all school districts~~
9 ~~to the clerk of the board of education of each school district. The forms~~
10 ~~for all other taxing subdivisions or municipalities of the state shall be~~
11 delivered by the director to the county clerk of each county, who shall
12 ~~immediately~~ deliver the same to the presiding officer of the governing
13 body of the ~~said~~ respective taxing subdivisions or municipalities within
14 the county. ~~Whenever in article 29 of chapter 79 of Kansas Statutes An-~~
15 ~~notated the words state auditor or auditor of state, or words of like effect,~~
16 ~~occur, the same shall mean director of accounts and reports.~~

17 Sec. 23. On and after January 1, 2005, K.S.A. 79-2927 is hereby
18 amended to read as follows: The governing body of each taxing subdivi-
19 sion or municipality shall meet not later than the first day of August of
20 each year, and shall prepare in writing on forms furnished by the director
21 of accounts and reports a budget itemized and classified by funds and
22 showing amounts to be raised by taxation and from other sources for the
23 ensuing budget year. The budget shall show in parallel columns all
24 amounts and items to be expended for the ensuing budget year and the
25 amounts appropriated for corresponding or other items during the cur-
26 rent budget year and amounts expended for corresponding or other items
27 during the preceding budget year. The budget for each fund shall not
28 include any item for sundry or miscellaneous purposes in excess of 10%
29 of the total. Except for ~~school districts~~, municipal universities and com-
30 munity colleges, the budget for each fund may include a non-appropriated
31 balance of not to exceed 5% of the total of each fund.

32 The budget shall show in parallel columns the amount of revenue actu-
33 ally received from taxation and from other sources, with the amount
34 from each source separately stated for the preceding budget year and the
35 amount actually received and estimated to be received from taxation and
36 from sources other than direct taxation with the amount for each source
37 separately stated for the current budget year and also the amount esti-
38 mated to be received during the ensuing budget year, with the amount
39 estimated to be received from each source separately stated. The budget
40 of expenditures for each fund shall balance with the budget of revenues
41 for such fund and that portion of the budget of revenues to be derived
42 from ad valorem property taxation shall not exceed the amount of tax
43 which can be raised by any fund limit or aggregate limit placed upon such

1 fund.

2 Sec. 24. On and after January 1, 2005, K.S.A. 12-1765, 12-2615, 44-
3 505e, 72-8204a, 72-8415a, 75-4322, 75-4330, 75-4332, 75-6110, 79-1808,
4 79-2925, 79-2926 and 79-2927 and K.S.A. 2002 Supp. 75-37,125 are
5 hereby repealed.

6 Sec. 25. This act shall take effect and be in force from and after its
7 publication in the statute book.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43