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

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

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

(1) Enrollment in the district in the school year has declined from enrollment in the preceding school year; or
(2) the board has adopted a local option budget and has budgeted therein the total amount authorized for the school year; or
(3) the board has determined that the amounts budgeted for operating expenses in the general fund and the supplemental general fund are insufficient to provide for certified teacher benefits and classroom enhancements.

(b) No district may adopt a teacher benefit and classroom enhancement budget unless the question of adoption of such a budget has been submitted to and approved by the electors of the district at a general or primary election or at a special election called for the purpose. The election shall be held in the manner provided by K.S.A. 10-120, and amendments thereto, for elections on the question of issuing bonds under the general bond law. Except as provided further, in any election held pursuant to this section, no school district funds shall be expended to promote or reject such budget adoption. The school district may print and distribute a two-page informational document concerning such election 14 days prior to the date of the election.

Sec. 2. There is hereby established in every district that adopts a teacher benefit and classroom enhancement budget a fund which shall be called the teacher benefit and classroom enhancement fund. The fund
shall consist of all amounts deposited therein or credited thereto according to law. Amounts in the teacher benefit and classroom enhancement fund may be expended for any benefits for certified teachers, including, but not limited to, an increase in salary and any funds remaining may be used for classroom enhancement. Any unexpended and unencumbered cash balance remaining in the teacher benefit and classroom enhancement fund of a district at the conclusion of any school year in which a teacher benefit and classroom enhancement budget is adopted may be maintained in such fund until budgeted and expended in a succeeding school year.

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

(b) The proceeds from the tax levied by a district under authority of this section shall be deposited in the teacher benefit and classroom enhancement fund of the district.

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

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

(2) The board of any district proposing to adopt a retailers’ sales tax shall give notice of its intention to submit such proposition for approval by the electors in the manner required by K.S.A. 10-120, and amendments thereto. The notices shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this section for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the levying of such tax, the board of such district shall provide by resolution for the levy of the tax. Any repeal of such tax or any reduction or increase in the rate thereof, within the limits prescribed by subsection (b) shall be accomplished in the manner provided herein for the adoption and approval of such tax except that the repeal of any such retailers’ sales tax may be accomplished by the adoption of a resolution so providing. Except as
provided further, in any election held pursuant to this section, no school district funds shall be expended to promote or reject such school district tax. The school district may print and distribute a two-page informational document concerning such election 14 days prior to the date of the election.

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

(2) The board of a district levying a retailers’ sales tax is hereby prohibited from administering or collecting such tax locally, but shall utilize the services of the state department of revenue to administer, enforce and collect such tax. Such tax shall be identical in its application, and exemptions therefrom, to the Kansas retailers’ sales tax act and all laws and administrative rules and regulations of the state department of revenue relating to the Kansas retailers’ sales tax shall apply to such school district sales tax insofar as such laws and rules and regulations may be made applicable. The state director of taxation is hereby authorized to administer, enforce and collect such school district sales taxes and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement thereof.

(3) Upon receipt of a certified copy of a resolution authorizing the levy of a school district retailers’ sales tax, the state director of taxation shall cause such taxes to be collected within or outside the boundaries of such district at the same time and in the same manner provided for the collection of the state retailers’ sales tax. All moneys collected by the director of taxation under the provisions of this section shall be credited to a school district retailers’ sales tax fund which fund is hereby established in the state treasury. Any refund due on any school district retailers’ sales tax collected pursuant to this section shall be paid out of the sales tax refund fund and reimbursed by the director of taxation from collections of school district retailers’ sales tax revenue. All school district retailers’ sales tax revenue collected within any school district pursuant to this section shall be apportioned and remitted at least quarterly by the state treasurer, on instruction from the director of taxation, to the treasurer of such school district.

(4) The director of taxation shall provide, upon request by the board of a district levying a school district retailers’ sales tax, a monthly report identifying each retailer having a place of business in the district and setting forth the amount of such tax remitted by each retailer during the preceding month. Such report shall be made available to the board within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any such board pursuant
to this provision shall be confidential, and it shall be unlawful for any
member or employee of such board to divulge any such information in
any manner. Any violation of this provision by any such member or em-
ployee is a class B misdemeanor, and such member or employee shall be
dismissed from office.

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

(d) All retail transactions consummated within a district having a re-
tailers’ sales tax, which transactions are subject to the Kansas retailers’
sales tax, shall also be subject to a school district retailers’ sales tax. Except
as hereinafter provided, all retail sales, for the purpose of this section,
shall be considered to have been consummated at the place of business
of the retailer. In the event the place of business of a retailer is doubtful
the place or places at which the retail sales are consummated for the
purposes of this section shall be determined under rules and regulations
adopted by the secretary of revenue which rules and regulations shall be
considered with state and federal law insofar as applicable. Retail sales
involving the use, consumption or furnishing of gas, water, electricity and
heat, for the purposes of this section, shall be considered to have been
consummated at the situs of the user or recipient thereof, and retail sales
involving the use or furnishing of telephone service or services taxed un-
der subsection (k) of K.S.A. 79-3603, and amendments thereto, shall be
considered to have been consummated at the situs of the subscriber billed
therefor. Retail sales involving the leasing of telecommunication or data
processing equipment commonly used in connection with telephone serv-
cices shall be considered to have been consummated at the situs of the
lessee. Retail sales involving the furnishing of services taxable under sub-
sections (p), (q) and (r) of K.S.A. 79-3603, and amendments thereto,
pursuant to a contract under which the sale of such services and the
furnishing of tangible personal property exceeds $10,000 per contract per
contractor shall be considered to have been consummated at the situs
where such services are performed. The director of taxation is hereby
authorized to request and receive from any retailer or from any board
levying the tax such information as may be reasonably necessary to de-
termine the liability of retailers for any school district sales tax. The col-
clection of any school district sales tax authorized at a primary or general
election shall commence on the first day of the calendar quarter next
following the 30th day after the date of the election authorizing the levy
of such tax. The collection of any sales tax of a school district approved
at any other election shall commence on the first day of the calendar
quarter next following the 60th day after the date of the election author-
izing the levy of such tax.

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

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

Sec. 5. K.S.A. 2001 Supp. 72-6407 is hereby amended to read
as follows: 72-6407. (a) “Pupil” means any person who is regularly
enrolled in a district and attending kindergarten or any of the
grades one through 12 maintained by the district or who is regu-
larly enrolled in a district and attending kindergarten or any of
the grades one through 12 in another district in accordance with
an agreement entered into under authority of K.S.A. 72-8233, and
amendments thereto, or who is regularly enrolled in a district and
attending special education services provided for preschool-aged
exceptional children by the district. Except as otherwise provided
in this subsection, a pupil in attendance full time shall be counted
as one pupil. A pupil in attendance part time shall be counted as
that proportion of one pupil (to the nearest 1/10 that the pupil’s
attendance bears to full-time attendance. A pupil attending kin-
dergarten shall be counted as 1/2 pupil. A pupil enrolled in and
attending an institution of postsecondary education which is au-
thorized under the laws of this state to award academic degrees
shall be counted as one pupil if the pupil’s postsecondary educa-
tion enrollment and attendance together with the pupil's attendance in either of the grades 11 or 12 is at least \( \frac{5}{6} \) time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest \( \frac{1}{10} \)) that the total time of the pupil's postsecondary education attendance and attendance in grade 11 or 12, as applicable, bears to full-time attendance. A pupil enrolled in and attending an area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if the pupil's vocational education enrollment and attendance together with the pupil's attendance in any of grades nine through 12 is at least \( \frac{5}{6} \) time, otherwise the pupil shall be counted as that proportion of one pupil (to the nearest \( \frac{1}{10} \)) that the total time of the pupil's vocational education attendance and attendance in any of grades nine through 12 bears to full-time attendance. A pupil enrolled in a district and attending special education and related services, except special education and related services for preschool-aged exceptional children, provided for by the district shall be counted as one pupil. A pupil enrolled in a district and attending special education and related services for preschool-aged exceptional children provided for by the district shall be counted as \( \frac{1}{2} \) pupil. A preschool-aged at-risk pupil enrolled in a district and receiving services under an approved at-risk pupil assistance plan maintained by the district shall be counted as \( \frac{1}{2} \) pupil. A pupil in the custody of the secretary of social and rehabilitation services and enrolled in unified school district No. 259, Sedgwick county, Kansas, but housed, maintained, and receiving educational services at the Judge James V. Riddel Boys Ranch, shall be counted as two pupils. A pupil residing at the Flint Hills Job Corps center shall not be counted. A pupil confined in and receiving educational services provided for by a district at a juvenile detention facility shall not be counted. A pupil enrolled in a district but housed, maintained, and receiving educational services at a state institution shall not be counted.

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

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

d) “Preschool-aged at-risk pupil” means an at-risk pupil who has attained the age of four years, is under the age of eligibility
for attendance at kindergarten, and has been selected by the state
board in accordance with guidelines consonant with guidelines
governing the selection of pupils for participation in head start
programs. The state board shall select not more than 3,756 pre-
school-aged at-risk pupils to be counted in the 2001-02 school year
and not more than 5,500 preschool-aged at-risk pupils to be
counted in any school year thereafter.

(e) “Enrollment” means, for districts scheduling the school
days or school hours of the school term on a trimestral or quarterly
basis, the number of pupils regularly enrolled in the district on
September 20 plus the number of pupils regularly enrolled in the
district on February 20 less the number of pupils regularly en-
rolled on February 20 who were counted in the enrollment of the
district on September 20; and for districts not hereinbefore spec-
ified, the number of pupils regularly enrolled in the district on
September 20. Notwithstanding the foregoing, if enrollment in a
district in any school year has decreased from enrollment in the
preceding school year, enrollment of the district in the current
school year means whichever is the greater of (1) enrollment in
the preceding school year minus enrollment in such school year of
preschool-aged at-risk pupils, if any such pupils were enrolled,
plus enrollment in the current school year of preschool-aged at-
risk pupils, if any such pupils are enrolled, or (2) the sum of en-
rollment in the current school year of preschool-aged at-risk pu-
pils, if any such pupils are enrolled and the average (mean) of the
sum of (A) enrollment of the district in the current school year
minus enrollment in such school year of preschool-aged at-risk pu-
pils, if any such pupils are enrolled and (B) enrollment in the pre-
ceding school year minus enrollment in such school year of pre-
school-aged at-risk pupils, if any such pupils were enrolled and (C)
enrollment in the school year next preceding the preceding school
year minus enrollment in such school year of preschool-aged at-
risk pupils, if any such pupils were enrolled.

(f) “Adjusted enrollment” means enrollment adjusted by add-
ing at-risk pupil weighting, program weighting, low enrollment
weighting, if any, correlation weighting, if any, school facilities
weighting, if any, ancillary school facilities weighting, if any, spec-
sial education and related services weighting, and transportation
weighting to enrollment.

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

(h) “Program weighting” means an addend component as-
signed to enrollment of districts on the basis of pupil attendance
in educational programs which differ in cost from regular edu-
cational programs.

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

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

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

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

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

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

cure Care Center, St. Francis Academy at Atchison, St. Francis Academy at Ellsworth, St. Francis Academy at Salina, St. Francis Center at Salina, King's Achievement Center, and Liberty Juvenile Services and Treatment.

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

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

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