

**Senate Substitute for HOUSE BILL No. 2540**

By Committee on Education

3-18

1 AN ACT concerning school districts; relating to the Kansas school equity  
2 and enhancement act; requiring school districts to make certain  
3 transfers to at-risk education funds; authorizing certain expenditures  
4 from at-risk education funds; extending the high-density at-risk student  
5 weighting; providing requirements for identification of students eligible  
6 to receive at-risk programs and services; requiring a performance audit  
7 for at-risk education; amending K.S.A. 72-5151 and K.S.A. 2019 Supp.  
8 72-5131, 72-5153 and 72-5173 and repealing the existing sections.  
9

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

11 New Section 1. (a) The state board of education shall require at-risk  
12 educational programs and services of school districts to provide additional  
13 educational opportunities, interventions and evidence-based instruction  
14 using the at-risk best practices identified pursuant to K.S.A. 72-5153, and  
15 amendments thereto, to assist students identified as eligible to receive at-  
16 risk educational programs and services in meeting state board of education  
17 outcome goals.

18 (b) A student shall be identified as eligible to receive at-risk programs  
19 and services if the student meets one or more of the following criteria:

- 20 (1) Is not working on academic grade level;
- 21 (2) is not meeting the requirements necessary for promotion to the  
22 next grade or is failing subjects or courses of study;
- 23 (3) is not meeting the requirements necessary for graduation from  
24 high school or has the potential to drop out of school;
- 25 (4) has insufficient mastery of skills or is not meeting state standards;
- 26 (5) has been retained;
- 27 (6) has a high rate of absenteeism;
- 28 (7) has repeated suspensions or expulsions from school;
- 29 (8) is homeless or migrant;
- 30 (9) is identified as an English language learner;
- 31 (10) has social-emotional needs that cause the student to be  
32 unsuccessful in school; or
- 33 (11) is identified as a student with dyslexia.

34 (c) This section shall be a part of and supplemental to the Kansas  
35 school equity and enhancement act.

36 Sec. 2. K.S.A. 2019 Supp. 72-5131 is hereby amended to read as

1 follows: 72-5131. K.S.A. 72-5131 through 72-5176, and amendments  
2 thereto, and K.S.A. 2019 Supp. 72-5178~~and~~, 72-5179 *and section I*, and  
3 amendments thereto, shall be known and may be cited as the Kansas  
4 school equity and enhancement act.

5 Sec. 3. K.S.A. 72-5151 is hereby amended to read as follows: 72-  
6 5151. (a) The at-risk student weighting of each school district shall be  
7 determined by the state board as follows:

8 (1) Determine the number of at-risk students included in the  
9 enrollment of the school district; and

10 (2) multiply the number determined under subsection (a)(1) by 0.484.  
11 The resulting sum is the at-risk student weighting of the school district.

12 (b) Except as provided in subsection (b)(4), the high-density at-risk  
13 student weighting of each school district shall be determined by the state  
14 board as follows:

15 (1) (A) If the enrollment of the school district is at least 35% at-risk  
16 students, but less than 50% at-risk students:

17 (i) Subtract 35% from the percentage of at-risk students included in  
18 the enrollment of the school district;

19 (ii) multiply the difference determined under subsection (b)(1)(A)(i)  
20 by 0.7; and

21 (iii) multiply the product determined under subsection (b)(1)(A)(ii)  
22 by the number of at-risk students included in the enrollment of the school  
23 district; or

24 (B) if the enrollment of the school district is 50% or more at-risk  
25 students, multiply the number of at-risk students included in the  
26 enrollment of the school district by 0.105; or

27 (2) (A) if the enrollment of a school in the school district is at least  
28 35% at-risk students, but less than 50% at-risk students:

29 (i) Subtract 35% from the percentage of at-risk students included in  
30 the enrollment of such school;

31 (ii) multiply the difference determined under subsection (b)(2)(A)(i)  
32 by 0.7; and

33 (iii) multiply the product determined under subsection (b)(2)(A)(ii)  
34 by the number of at-risk students included in the enrollment of such  
35 school; or

36 (B) if the enrollment of a school in the school district is 50% or more  
37 at-risk students, multiply the number of at-risk students included in the  
38 enrollment of such school by 0.105; and

39 (C) add the products determined under subsections (b)(2)(A)(iii) and  
40 (b)(2)(B) for each such school in the school district, respectively.

41 (3) The high-density at-risk *student* weighting of the school district  
42 shall be the greater of the product determined under subsection (b)(1) or  
43 the sum determined under subsection (b)(2)(C).

1       (4) ~~Commencing in school year 2018-2019,~~ School districts that  
2 qualify to receive the high-density at-risk *student* weighting pursuant to  
3 this section shall spend any money attributable to the school district's high-  
4 density at-risk *student* weighting on the at-risk best practices developed by  
5 the state board pursuant to K.S.A. 72-5153(d), and amendments thereto. If  
6 a school district that qualifies for the high-density at-risk *student*  
7 weighting does not spend such money on such best practices, the state  
8 board shall notify the school district that it shall either spend such money  
9 on such best practices or shall show improvement within five years of  
10 notification. Improvement shall include, but not be limited to, the  
11 following: (A) The percentage of students at grade level on state math and  
12 English language arts assessments; (B) the percentage of students that are  
13 college and career ready on state math and English language arts  
14 assessments; (C) the average composite ACT score; or (D) the four-year  
15 graduation rate. If a school district does not spend such money on such  
16 best practices and does not show improvement within five years, the  
17 school district shall not qualify to receive the high-density at-risk *student*  
18 weighting in the succeeding school year.

19       (5) The provisions of this subsection shall expire on July 1, ~~2020-~~  
20 ~~2023.~~

21       (c) *The purpose of the at-risk student weighting and the high-density*  
22 *at-risk student weighting is to provide students identified as eligible to*  
23 *receive at-risk programs and services with evidence-based educational*  
24 *services in addition to regular instructional services.*

25       (d) *Upon a school district's receipt of state foundation aid, that*  
26 *portion of such state foundation aid that is directly attributable to such*  
27 *school district's at-risk student weighting and high-density at-risk student*  
28 *weighting, if any, shall be transferred to the district's at-risk education*  
29 *fund established under K.S.A. 72-5153, and amendments thereto.*

30       Sec. 4. K.S.A. 2019 Supp. 72-5153 is hereby amended to read as  
31 follows: 72-5153. (a) There is hereby established in every school district  
32 an at-risk education fund, ~~which~~ *that* shall consist of all moneys deposited  
33 therein or transferred thereto according to law. The expenses of a school  
34 district directly attributable to providing at-risk student assistance or  
35 programs shall be paid from the at-risk education fund.

36       (b) Any balance remaining in the at-risk education fund at the end of  
37 the budget year shall be carried forward into the at-risk education fund for  
38 succeeding budget years. Such fund shall not be subject to the provisions  
39 of K.S.A. 79-2925 through 79-2937, and amendments thereto. In preparing  
40 the budget of such school district, the amounts credited to and the amount  
41 on hand in the at-risk education fund, and the amount expended therefrom  
42 shall be included in the annual budget for the information of the residents  
43 of the school district. Interest earned on the investment of moneys in any

1 such fund shall be credited to that fund.

2 (c) ~~Commencing in school year 2018-2019,~~ Expenditures from the at-  
3 risk education fund of a school district shall only be made for the  
4 following purposes:

5 (1) ~~At-risk and provisional at-risk educational programs based on~~  
6 ~~best practices identified pursuant to subsection (d);~~

7 (2) personnel providing educational services in conjunction with such  
8 programs; ~~or~~

9 (3) *support for instructional classroom personnel designed to provide*  
10 *training for evidence-based best practices for at-risk educational*  
11 *programs; or*

12 (4) services contracted for by the school district to provide ~~at-risk~~  
13 ~~educational such programs based on best practices identified pursuant to~~  
14 ~~subsection (d).~~

15 (d) (1) The state board shall identify and approve evidence-based best  
16 practices for at-risk *educational* programs and instruction of students  
17 receiving at-risk program services. ~~On and after July 1, 2019,~~ Such best  
18 practices shall include, but not be limited to, programs and services  
19 provided by state-based national nonprofit organizations that:

20 (A) Focus on students who are identified as students eligible to  
21 receive at-risk program services or who face other identifiable barriers to  
22 success;

23 (B) provide evidence-based instruction and support services to such  
24 students inside and outside the school setting; and

25 (C) evaluate outcomes data for students, including, but not limited to,  
26 school attendance, academic progress, graduation rates, pursuit of  
27 postsecondary education or career advancement.

28 (2) The state board shall review and update such best practices as  
29 necessary and as part of its five-year accreditation system review process.

30 (3) *The state board shall provide a list of approved at-risk*  
31 *educational programs to each school district. No expenditure shall be*  
32 *made from a school district's at-risk education fund for any program or*  
33 *service that is not included on the list of approved at-risk educational*  
34 *programs, unless such program is a provisional at-risk educational*  
35 *program. Expenditures shall only be made for a provisional at-risk*  
36 *educational program for a period not to exceed three years after*  
37 *implementation of such provisional at-risk educational program by a*  
38 *school district. The state board shall review any such provisional at-risk*  
39 *educational program, and if such program satisfies the state board's*  
40 *requirements as an evidence-based best practice, then such program shall*  
41 *be included in the list of approved at-risk educational programs. The*  
42 *department shall publish the list on the department's website with a link to*  
43 *such list prominently displayed on the website homepage.*

1       (4) *The purpose of the at-risk and provisional at-risk educational*  
2 *programs and services is to provide students identified as eligible to*  
3 *receive at-risk programs and services with additional educational*  
4 *opportunities, interventions and evidence-based instructional services*  
5 *above and beyond regular educational services.*

6       (5) *Delivery of at-risk and provisional at-risk programs or services*  
7 *by a school district may include, but shall not be limited to, the following:*

8       (A) *Extended school year;*

9       (B) *before-school programs and services;*

10      (C) *after-school programs and services;*

11      (D) *summer school;*

12      (E) *extra support within a class;*

13      (F) *tutorial assistance; and*

14      (G) *class within a class.*

15      (e) Each year the board of education of each school district shall  
16 prepare and submit to the state board a report on the ~~assistance or~~ *at-risk*  
17 *and provisional at-risk educational* programs provided by the school  
18 district for students identified as eligible to receive at-risk program  
19 services. Such report shall include:

20      (1) The number of students identified as eligible to receive at-risk or  
21 *provisional at-risk educational* program services who were served or  
22 provided assistance;;

23      (2) the type of ~~service~~ *at-risk and provisional at-risk educational*  
24 *programs and services* provided, including the number of students  
25 provided assistance under the district's approved at-risk program;

26      (3) the ~~data and research upon which the school district relied~~  
27 ~~utilized in determining that a need for service or assistance existed, the~~  
28 ~~results of providing such service or assistance~~ *what programs and*  
29 *services were needed to implement the approved at-risk program;*

30      (4) *the district shall track and report the longitudinal performance of*  
31 *students that are continuously receiving at-risk programs and services in*  
32 *the district's approved at-risk program and, if applicable, may include*  
33 *data regarding state assessment scores, Kansas English language*  
34 *proficiency assessment results, four-year graduation rates, progress*  
35 *monitoring, norm-referenced test results, criterion-based test results,*  
36 *individualized education program goals, attendance and average ACT*  
37 *composite scores; and*

38      (5) any other information required by the state board.

39      (f) In order to achieve uniform reporting of the number of students  
40 provided service or assistance by school districts in at-risk student  
41 programs, school districts shall report the number of students served or  
42 assisted in the manner required by the state board.

43      (g) As used in this section, ~~the term:~~

1       (1) *"At-risk educational program" means an at-risk program or*  
2 *service that is identified and approved by the state board as an evidence-*  
3 *based best practice pursuant to subsection (d);*

4       (2) *"evidence-based instruction" means an education delivery system*  
5 *based on peer-reviewed research that consistently produces better student*  
6 *outcomes over a five-year period than would otherwise be achieved by the*  
7 *same students who are receiving at-risk program services; and*

8       (3) *"provisional at-risk educational program" means an evidence-*  
9 *based at-risk educational program or service identified or developed by a*  
10 *school district as producing or likely to produce measurable success that*  
11 *has been submitted to the state board for review pursuant to subsection*  
12 *(d).*

13       Sec. 5. K.S.A. 2019 Supp. 72-5173 is hereby amended to read as  
14 follows: 72-5173. The legislative post audit committee shall direct the  
15 legislative division of post audit to conduct the following performance  
16 audits in the fiscal year specified:

17       (a) A performance audit of transportation services funding. The audit  
18 should include a comparison of the amount of transportation services  
19 funding school districts receive to the cost of providing transportation  
20 services. This performance audit shall be conducted during fiscal year  
21 2018, and the final audit report shall be submitted to the legislature on or  
22 before January 15, 2018.

23       (b) A performance audit of at-risk education funding. The audit  
24 should evaluate the method of counting students for at-risk education  
25 funding, the level of the at-risk student weighting and high-density at-risk  
26 student weighting under the act and how school districts are expending  
27 moneys provided for at-risk education. This performance audit shall be  
28 conducted during fiscal year 2020, and the final audit report shall be  
29 submitted to the legislature on or before January 15, 2020.

30       (c) A performance audit of bilingual education funding. The audit  
31 should evaluate the method of counting students for bilingual education  
32 funding, the level of the bilingual weighting under the act and how school  
33 districts are expending moneys provided for bilingual education. This  
34 performance audit shall be conducted during fiscal year 2021, and the final  
35 audit report shall be submitted to the legislature on or before January 15,  
36 2021.

37       (d) A study of statewide virtual school programs administered in  
38 other states. The study shall include, but not be limited to, the following:

39       (1) The aggregate cost incurred by each state administering a virtual  
40 school program, and the cost incurred by individual school districts or  
41 schools within each state;

42       (2) the resources necessary for the implementation of each virtual  
43 school program, including, but not limited to, personnel, equipment,

1 software and facility usage;

2 (3) the scope of each virtual school program; and

3 (4) the effectiveness of each virtual school program with respect to  
4 student performance and outcomes.

5 The study shall be conducted during fiscal year 2023, and the final  
6 study report shall be submitted to the legislature on or before January 15,  
7 2023.

8 (e) A performance audit of the unencumbered cash balances held in  
9 all funds by each school district. The audit should evaluate the annual  
10 accumulations of unencumbered cash balances for the preceding 10 years,  
11 the annual expenditures of such moneys and how school districts are  
12 expending such moneys. This performance audit shall be conducted no  
13 later than fiscal year 2021, and the final audit report shall be submitted to  
14 the legislature on or before January 15, 2021.

15 (f) (1) A performance audit to provide a reasonable estimate of the  
16 cost of providing educational opportunities for every public school student  
17 in Kansas to achieve the performance outcome standards adopted by the  
18 state board of education. This performance audit shall be conducted during  
19 fiscal year 2024, and the final report submitted to the legislature on or  
20 before January 15, 2024.

21 (2) The performance audit required under this subsection shall:

22 (A) Include reasonable estimates of the costs of providing specialized  
23 education services as required by law, including, but not limited to,  
24 bilingual education and at-risk programs; and

25 (B) account for other factors which may contribute to variations in  
26 costs incurred by school districts, including, but not limited to, total  
27 district enrollment and geographic location within the state.

28 (3) In conducting the performance audit required under this  
29 subsection:

30 (A) Any examination of historical data and expenditures shall correct  
31 any recognized inadequacy of such data or expenditure through a  
32 statistically valid method of extrapolation; and

33 (B) subject to the limitations of the division of legislative post audit  
34 budget and appropriations therefor, the legislative post auditor may enter  
35 into contracts with consultants as the post auditor deems necessary.

36 (g) A performance audit to provide a reasonable estimate of the costs  
37 of providing special education and related services, including, but not  
38 limited to, other factors which may contribute to variations in costs  
39 incurred by school districts. This performance audit shall be conducted  
40 during fiscal year 2019, and the final audit report shall be submitted to the  
41 legislature on or before January 15, 2019.

42 (h) *A performance audit of at-risk education expenditures. The audit*  
43 *should evaluate how school districts are expending moneys provided for*

1 *at-risk education, whether those expenditures comply with statutory*  
2 *provisions and whether the state board of education and the department of*  
3 *education are acting in accordance with statutory provisions related to at-*  
4 *risk expenditures and programs. This audit should also evaluate the trends*  
5 *in the academic outcomes of students receiving at-risk education program*  
6 *services. This performance audit shall be conducted during calendar year*  
7 *2022, and the final audit report shall be submitted to the legislature on or*  
8 *before January 15, 2023.*

9 Sec. 6. K.S.A. 72-5151 and K.S.A. 2019 Supp. 72-5131, 72-5153 and  
10 72-5173 are hereby repealed.

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