

# SCHOOL BOND GUIDE

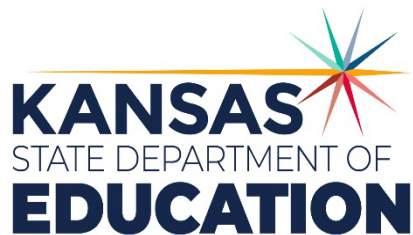
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**Sample Forms**

**Application**

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Unified School  
District



*Kansas leads the world in the success of each student.*

**MISSION**

To prepare Kansas students for lifelong success through rigorous, quality academic instruction, career training and character development according to each student's gifts and talents.

**VISION**

Kansas leads the world in the success of each student.

**MOTTO**

Kansans Can

**SUCCESS DEFINED**

A successful Kansas high school graduate has the

- Academic preparation,
- Cognitive preparation,
- Technical skills,
- Employability skills and
- Civic engagement

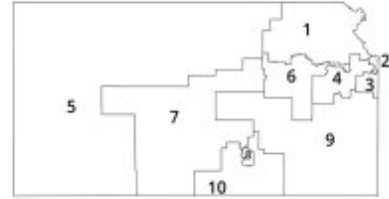
to be successful in postsecondary education, in the attainment of an industry recognized certification or in the workforce, without the need for remediation.

**OUTCOMES**

- Social-emotional growth
- Kindergarten readiness
- Individual Plan of Study
- Civic engagement
- Academically prepared for postsecondary
- High school graduation
- Postsecondary success



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*Kansas leads the world in the success of each student.*

Jan. 25, 2024

# Revision History

Date	Reason of Change	Edited By
1/3/2018	<p>Recodification of Chapter 72 of the Kansas Statutes Annotated, Schools – Effective Dec. 21, 2017 –</p> <p>The Kansas Office of Revisor of Statutes recodified statutory sections of Chapter 72 for the purpose of providing clarity and uniformity with subject matter related to elementary and secondary education. In some cases, the subject matter of the section required transfer to another chapter, such as Chapter 13 or Chapter 74. A table of the transferred sections and their newly assigned section numbers can be found at this website:  <a href="http://www.ksrevisor.org">http://www.ksrevisor.org</a></p> <p>All statutes referenced in this School Bond Guide publication have been revised to reflect the new section numbers.</p>	1.0
12/7/2018	<p>Amendment of K.S.A. 72-5462 by 2019 Kansas legislature. Added text from K.S.A. 72-5461 on page 1</p>	1.1

## Related Documents

Document Title	Document Location	Comments

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# SCHOOL BOND GUIDE

## Introduction

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The purpose of this school bond guide is to present Kansas statutes relating to the issuance of school bonds and the construction of school buildings. It is updated periodically to include new legislation passed by the Kansas legislature.

The bond guide should be used only as a guide in planning for bond issues and the construction of school buildings. Statutory citations have been given as a reference to the statutes shown in the Kansas Statutes Annotated and their supplements. It is recommended that the actual statutes be reviewed.

Samples of forms that may be used to develop a school bond program also have been included. These forms may be duplicated or revised, as needed.

If you have any questions concerning the bond guide, please contact the Division of Fiscal and Administrative Services at (785) 296-3871.

# Glossary

Term	Meaning

# Provisions and Procedures for Issuance of Bonds by USD

School district bond laws must be understood and followed explicitly for a legal bond issuance. Because of this fact and since school district general obligation bonds pledge the full faith and credit of the district, it is recommended that each board of education obtain and follow the advice of an attorney on the steps involved in conducting a bond election, and of a financial advisor in regard to the selling of bonds.

## I. General Provisions for the Issuance of Bonds (K.S.A 72-5457)

A. General obligation bonds may be issued to:

- 1.purchase or improve any site or sites necessary for school district purposes including housing and boarding pupils enrolled in an area vocational school;
- 2.acquire, construct, equip, furnish, repair, remodel or make additions to buildings including housing and boarding pupils enrolled in an area vocational school operated under the board of education of a school district; and
- 3.purchase school buses.

B. General limitation on bond indebtedness

Generally, the aggregate amount of bonds outstanding at any time (exclusive of bonds specifically exempted from statutory limitations) cannot exceed 14% of the assessed valuation of taxable tangible property within the school district. However, the State Board of Education may issue an order authorizing a school district to vote and issue bonds in an amount exceeding the general limitation fixed under K.S.A. 72-5458 et seq.

C. K.S.A. 72-5461. Commencing in school year 2017-18, the state board of education shall not approve any application submitted during the current school year if such approval would result in the aggregate amount of all general obligation bonds approved by the state board for such school year exceeding the aggregate principal amount of all general obligation bonds retired in the immediately preceding school year adjusted for inflation pursuant to paragraph (4). For any application submitted during the current school year in excess of \$175,000,000 the state board shall apply only an amount of \$175,000,000 of such application when determining whether the aggregate principal amount of all general obligation bonds retired in the immediately preceding school year has been exceeded.

(4) The state board shall adjust the aggregate principal amount of all general obligation



bonds retired in the immediately preceding school year by adding an amount equal to the five-year compounded percentage increase in the producer price index industry data for new school building construction as published by the bureau of labor statistics of the United States department of labor for the five immediately preceding school years.

This provision shall not apply to school districts that have not issued any general obligation bonds in the 25 years prior to the current school year.

## II. Procedure for calling and holding a Bond Election

A. The board must adopt a resolution stating the purpose and the estimated amount for which bonds are to be issued.

B. The Board must give notice of each bond election in the manner prescribed in K.S.A. 25-2018(f).

C. Elections must be held in accordance with the provisions of the General Bond Law.

1. A notice of election must be published once each week for two consecutive weeks in a newspaper having general circulation in the school district, with the first publication to be not less than twenty-one (21) days prior to the election. (K.S.A. 10-120)

2. The notice must state:

- a) the name of the unified district;
- b) the date of the bond election;
- c) the amount of bonds to be issued;
- d) the proposition to be voted upon;
- e) the hours of opening and closing the polls;
- f) the voting place or places and the territory each voting place is to serve; and
- g) any other information specifically required by law. (See K.S.A. 25-2018(f))

D. The election.

1. The county election officer, who is the county clerk in most school districts but the election commissioner in others, is in charge of the election. (K.S.A. 25-2010)

- a) Ballots and poll books are to be provided by the county election officer.
- b) Direct election expenses must be reimbursed to the county by the school district, except for any election held on a day when every registered voter in the county is authorized to vote at one election or another. (K.S.A. 25-2201(b))

2. All qualified electors of the district are entitled to vote.
3. The vote must be by official ballot.
4. The election board must report the results of the balloting to the election officer.
5. A majority vote of those electors voting determines the results of the election.

E. The mail ballot election act, K.S.A. 25-431 to 25-440.

(See Form No. 7-212-117 on page 20.)

The "Mail Ballot Election Act" concerns voting by mail in certain elections and designation of county election officers and deputies.

A section-by-section summary of the act follows:

K.S.A. 25-431 to 25-440 may be cited as the "Mail Ballot Election Act."

K.S.A. 25-432. An election shall not be held under the act unless:

- a) Conducted on a date, mutually agreed upon by the governing body of the political or taxing subdivision and the county election officer, not later than 120 days following the date the request is submitted by the political or taxing subdivision;
- b) The Secretary of State approves a written plan for conduct of the election, which shall include a written timetable for the conduct of the election, submitted by the county election officer;
- c) The election is nonpartisan;
- d) The election is not one at which any candidate is elected, retained or recalled;
- e) The election is not held on the same date as another election in which the qualified electors of that subdivision of government are eligible to cast ballots; and
- f) The election is a question submitted election at which all of the qualified electors of one or any of the following subdivisions of government are the only electors eligible to vote:
  - (3) school districts, except in an election held pursuant to K.S.A. 72-635 et seq., and amendments thereto; and ...

K.S.A. 25-433. This section outlines the procedure for mailing ballots, marking ballots and returning ballots. The section provides that the county election officer shall mail all official ballots with a return identification postage paid envelope. In addition, the section provides for a replacement ballot if the ballot is destroyed, spoiled, lost, or not received by the voter.

The section outlines the conditions under which the mail ballot is to be counted.

Undeliverable ballot envelopes result in the removal of the voters' names from the registration book and party affiliation list.

K.S.A. 25-434. This section provides for the challenge of ballots.

K.S.A. 25-435. This section provides for absentee ballots.

K.S.A. 25-436. The county election officer may not mail a ballot to those electors not registered 30 days prior to the date of the election. Electors registered after 30 days prior to the date of the election, but prior to the closing of the registration books, may apply for a ballot under subsection (d) of Section 3.

K.S.A. 25-437. This section provides for the county election officer to appoint a special election board to make the original canvass of all ballots cast in the county.

K.S.A. 25-438. All laws which apply to elections apply to elections under this act to the extent applicable.

K.S.A. 25-439. No mere informality in the manner of carrying out or executing the provisions of this act shall invalidate any election held under it or authorize the rejection of the returns. The provisions of the act shall be construed liberally for the purpose of effectuating its purposes.

K.S.A. 25-440. This section provides for the Secretary of State to adopt rules and regulations governing the procedures and forms necessary to implement the act.

#### F. Extraordinary Declining Enrollment

K.S.A. 72-5464. If enrollment in a district has declined during the preceding three school years at a rate of at least 5% per year or by at least 50 pupils per year, whichever is greater, the board of education shall not authorize the issuance of any bonds for the construction of a new building without having first advised and consulted with the joint committee on state building construction. If the joint committee recommends against the issuance of any bonds and if the district proceeds to issue bonds, the district shall not be entitled to state aid for such bonds, unless approved by the state board.

### III. Registration and Selling of Bonds

A. Bonds must meet the following requirements:

1. The printing of bonds must comply with uniform standards prescribed by law; and
2. The bonds must be signed by the president of the board of education, attested by the clerk and countersigned by the treasurer of the board.

B. Procedure for Selling Bonds (K.S.A. 10-106) (If the issue is \$2,000,000 or less, see paragraph 7 on page 4.)

1. It is the duty of the board of education to send a certified copy of the transcript of the proceedings preliminary to a bond issue to the state treasurer for registration of the bonds.
2. Except as indicated in paragraph 7 below, under K.S.A. 10-106, bonds must be sold at public sale as follows:

The board of education shall publish a notice of the sale one time in a newspaper having general circulation in the county where the bonds are issued and in the Kansas Register. Such notices shall be published not less than six days nor more than 30 days before the sale and shall contain the following information:

(a) 1. Except as provided by subsection (b) the date, time and place at which a public notice auction will be held on such terms and conditions as shall be provided by the municipality or at which bids will be received and considered for the sale of the bonds for cash at such price as the municipality may accept;

2. The date of issue, total par value and denomination of the bonds being sold;
3. The dates and amounts of maturities of the bond issues;
4. The dates on which interest on the bonds shall become due and payable;
5. The place or places where and the approximate date on which the bonds being sold will be delivered to the purchaser;
6. A statement that a good faith deposit in the form of cash, including cash deposited into an account of the municipality or its agent by electronic fund transfer, a certified or cashier's check or surety bond in the amount of 2% of the total par value of the bonds being sold shall be furnished at or prior to the time of sale by each bidder except that if a bidder agrees to submit the good faith deposit through the federal reserve system into an account of the municipality or its agent, the good faith deposit may be furnished any time prior to the time the governing body of the municipality accepts the bid;
7. A statement disclosing whether or not the purchaser of the bonds will be required to pay for the printing thereof and whether or not and to what extent the purchaser of the bonds will be required to pay the expense of legal services

rendered to the municipality in connection with the issuance of the bonds including the fees of recognized bond counsel for an opinion as to legality of issuance;

8. The assessed valuation of the municipality;

9. That bidders may be required to be qualified in a manner established by the municipality before submitting a bid; and

10. The total bonded indebtedness of the municipality as of the date on which the bonds being sold are dated including the bonds submitted for bid. The rate of interest may be omitted in advertising and the bidders requested to specify the lowest interest rate or rates on the bonds at which they will pay the purchase price.

(b) If sold at public notice sale, purchasers shall submit their bids in writing, sealed or sent by facsimile or other electronic transmission, as set forth in the notice of sale, for all or any part of the bonds. In case any purchaser, whose bid is accepted, fails to carry out the contract, the deposit shall be forfeited to the municipality issuing the bonds. Bids shall be disclosed publicly and tabulated or compared only at the time and place specified in the notice. At the time and place specified, the bonds shall be sold to the highest and best bidder or bidders, and the bonds may be allotted among the bidders, however, any or all bids may be rejected. No contract for the sale of the bonds shall be made except on bids submitted as provided in this section. No bonds shall be delivered to any purchaser until the amount of the bid is placed in the hands of the officer in charge of the sale. The provisions of this section relating to public notice sale of bonds shall not apply to bonds: (1) secured solely and only by revenues, (2) bonds sold, pursuant to written agreement, to the government of the United States of America or any bureau, department, instrumentality or agency thereof, (3) bonds issued pursuant to K.S.A. 10-427 et seq., and amendments thereto, (4) all bonds of the same series or which are issued simultaneously with such bonds, and (5) bond sales where the total amount of the issue does not exceed \$2,000,000. In such cases, the bonds may be sold at public notice or private sale as the officers having charge of the sale of such bonds determine. If bonds under clause (5) are to be sold at private sale, the officers having charge of the sale of such bonds shall publish in advance of the sale a notice of intent to seek private placement of such bonds in a newspaper having general circulation in the county where the bonds are issued and in the Kansas register. Such notice shall state the maximum aggregate principal amount of the bonds and shall indicate that the proposed sale is in all respects subject to the subsequent approval of an appropriate

bond purchase agreement and an ordinance for the issuance of bonds. The practice of providing more than one issue within a twelve-month period for any one project is prohibited unless the project engineer or architect certifies that it is necessary to do so for the orderly construction progress of the project.

(c) As an alternative to providing notice of the date, time and place of public notice auction or receipt of bids provided by subsection (a)(1), the officers having charge of a bond sale may establish a time period of not less than seven nor more than 30 days during which such bonds would be sold. Notice of such sale period shall be published one time in a newspaper having general circulation in the county where the bonds are issued and in the Kansas register and shall be published not less than six days nor more than 30 days before the beginning date of the sale period. The notice shall contain the information specified in subsection (a) except that in place of the time and date of sale, the notice shall specify the time period during which the bonds would be sold and the manner in which persons interested in submitting a bid may register for notice of the bond sale. At least three business days prior to the time and date of the bond sale, the officers having charge of the sale shall give notice to all persons having registered for notice of the bond sale, and bids shall be submitted and received and the sale made in the manner provided in subsection (a).

C. Terms and denominations of municipal bonds. (K.S.A. 10-103)

1.(a) Except as provided in subsection (b), all municipal bonds payable from special assessments against the property benefited, shall be issued to mature in not more than 20 installments. The last installment shall mature not more than 22 years after the date of issuance. All other municipal bonds shall be issued to mature in not more than 30 installments. The last installment shall mature not more than 32 years after the date of issuance. Such bonds shall bear interest at a rate not to exceed the maximum rate of interest prescribed by K.S.A. 10-1009, and amendments thereto, payable at such times fixed by the municipality issuing the same. Each bond shall specify the date of its separate maturity and shall be in such denomination as the municipality issuing the same determines.

(b) Municipal bonds sold, pursuant to written agreement, to the government of the United States of America or any bureau, department, instrumentality or agency thereof shall be issued to mature in not more than 40 years, may have serial or term maturities and shall bear interest at a rate not to exceed the maximum rate prescribed by K.S.A. 10-1009, and amendments thereto, payable at such times fixed by the municipality issuing the same. The bonds may be in coupon or registered form and interchangeable, and shall have such other terms and provisions as the municipality provides by ordinance, resolution or trust agreement.

D. Rates of Interest; limitation. (K.S.A. 10-1009)

1.The maximum stated rate of interest which may be fixed on fixed-rate bonds issued by municipality or taxing subdivision of the state of Kansas shall be determined on the

day the bonds are sold and shall not exceed the daily yield for the ten-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus (1) three percent, if the interest on the bonds is excluded from gross income for federal income tax purposes or (2) four percent, if the interest on the bonds is included in gross income for federal income tax purposes.

2. The maximum stated rate of interest which may be fixed on variable-rate bonds issued by a municipality or taxing subdivision of the state of Kansas shall be determined on the date on which the rate is determined in accordance with the resolution or ordinance of the issuer and shall not exceed the daily yield for the ten-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding such date, plus (1) three percent, if the interest on the bonds is excluded from gross income for federal income tax purposes or (2) four percent, if the interest on the bonds is included in gross income for federal income tax purposes.

3. Except as provided for variable rate bonds, the maximum rate of interest specified in this section shall be applicable to bonds issued after the effective date of this act. The maximum rate of interest on variable rate bonds issued prior to the effective date of this act shall be the higher of (1) the maximum rate of interest specified by subsection (a) or (b) of this section, as in effect prior to the effective date of this act, (2) the maximum rate of interest specified in this section or (3) the rate for such variable rate bonds specified in the documents authorizing the issuance thereof.

4. Notwithstanding the foregoing, for the period from the effective date of this act until and including June 30, 2012, the maximum stated rate of interest which may be fixed on fixed-rate or variable rate bonds issued by a municipality or taxing subdivision of the state of Kansas shall be determined on the day the bonds are sold and shall not exceed the daily yield for the ten-year treasury bonds published by The Bond Buyer, in New York, New York, on the Monday next preceding the day on which the bonds are sold, plus (1) 6%, if the interest on the bonds is excluded from gross income for federal income tax purposes or (2) 7%, if the interest on the bonds is included in gross income for federal income tax purposes.



## **IV. Issuance of \$20,000 in Bonds or Temporary Notes without an Election (K.S.A 72-5457)**

(b) Any board of education may issue, without an election but with the approval of the state board of education, bonds to construct or acquire buildings to be used for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, to repair school district buildings, to acquire equipment or to purchase school buses, in an amount not to exceed \$20,000. Bonds issued without an election under this subsection shall not be subject to any bonded debt limitations nor shall the bonds be considered in determining the bonded indebtedness of any school district, and the total amount of bonds outstanding which are issued hereunder without an election shall not at any one time exceed \$20,000.

(c) In lieu of bonds, temporary notes may be issued under K.S.A. 10-123, and amendments thereto, and the notes may be retired, at the option of the board of education, by tax levies made under K.S.A. 10-113, and amendments thereto.

A. Application should be made on Form 7-212-100 which may be obtained from the Division of Fiscal and Administrative Services, State Department of Education.

B. Temporary notes cannot mature later than four years from the date of the notes. (K.S.A. 10-123)

## V. Bond Payments when Territory Transferred or District Disorganized

All territory within a school district on the date bonds of the district are issued remains liable for the payment of such bonds even though some of the territory subsequently is transferred or the district is disorganized. (K.S.A. 10-119, 72-637, and 72-638)

For the purpose of determining tax liability for bonds issued or other indebtedness incurred under the provisions of K.S.A. 10-119, the effective date of a transfer of school territory for bonds issued or other indebtedness incurred shall be the same as the effective date for election purposes as provided in the order of the State Board of Education in which the transfer of territory is approved. Residents of the territory transferred are liable for bonds issued and other indebtedness incurred by the receiving district on such date or thereafter. Residents of the territory transferred are not liable for bonds issued and other indebtedness incurred by the giving district on or after such date. (K.S.A. 72-523, 72-524, and 72-532)

## **VI. Bond Elections; Frequency Limitation (K.S.A 25-2019)**

No school district can call or hold more than one special bond election at a time other than a general election or the election of board of education members within any one calendar year. In addition, no special bond election can be held within sixty (60) days before or after a general election or election of members of the board of education of the district. However, districts are not prohibited from planning for or considering a bond election during the period between authorized bond elections, nor from giving notice or making other preparations for an election during such period.

These restrictions have no application to an election for authorization to levy a capital outlay tax.

## VII. Capital Outlay Tax Levy (K.S.A 72-53,113)

Subject to a possible vote by school district electors, the board of education of a school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate upon the taxable tangible property in the school district for the purposes specified in the law. However, no levy can be made until a resolution is adopted and published by the board of education and a period is allowed for the filing of a petition requesting a vote on the question of whether the tax should be levied. Form 7-212-102 is a sample of the resolution that must be adopted under the requirements of the statute.

## **VIII. Capital Outlay Fund (K.S.A 72-53-115)**

In the budget of each school district in the state, there is a fund which is called the capital outlay fund. The proceeds of any tax levied under K.S.A. 72-53,113, except for an amount to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of re-development projects upon property located within the school district, must be deposited in the capital outlay fund of the school district making the levy.

## IX. Issuance of Temporary Notes (K.S.A 10-123)

If an improvement of a school district can be paid for lawfully, in whole or in part, by the issuance of bonds, the school district may issue temporary notes, bearing interest at a rate not exceeding the maximum rate prescribed by K.S.A. 10-1009, payable in accordance with the terms of the notes, maturing not later than four years from the date of the notes and not exceeding in the aggregate the amount of bonds which are to be issued and are then unissued, as shown by the approved estimates on file. Any school district may issue renewal temporary notes to pay for the cost of taking up any previously issued temporary notes as they mature when all aspects of the improvement will not be completed at the maturity date of the notes or when the school district has completed the improvements and the issuance of bonds is prevented, hindered or delayed. The temporary notes are to be in a form determined by resolution of the school board, acceptable for registration by the state treasurer. The entire temporary note must be contained on one sheet of paper. The notes must be executed and registered in the same manner as the bonds, and must be redeemed and canceled before, or at, the time permanent bonds are issued in lieu thereof. The amount of temporary notes and bonds issued and outstanding at any time cannot exceed the estimated cost and expense of the improvement. The temporary notes may be issued from time to time, as required during the progress of the work, are negotiable in accordance with their terms, and constitute a general obligation of the school district. The temporary notes are not negotiable until countersigned, following registration, by the clerk of the school district, and a statement to that effect must appear on the face of all such temporary notes. Temporary notes may be sold in the manner determined by the school district.

## X. Guidelines to Apply for Approval to hold an Election on the Question of Issuing Bonds in an Amount exceeding the School Districts General Bond Debt Limitation and Requesting Capital Improvement State Aid (If applicable)

1. All forms necessary for unified school districts to make application to the State Board of Education for approval to exceed the general bond debt limitation of the school district may be obtained from the Division of Fiscal and Administrative Services of the State Department of Education. Phone number: (785) 296-3871

2. The notice required by K.S.A. 72-5460 of the intention to file an application for permission to exceed the general bond debt limitation must be made one time in a newspaper of general circulation in the district and the publication must be made no later than the 10th day of the month in which the application is submitted to the State Board.

3. The application for permission to hold an election, a copy of the published notice of intent to file the application, and an Affidavit of Publication must be received by the Division of Fiscal and Administrative Services by at least the 15th day of the month in which the application is submitted to the State Board.

4. In accordance with KSA 72-5462, any school district that is eligible and desires to receive capital improvement state aid (bond & interest) must apply to the Kansas State Board of Education for such state aid.

- Kansas law provides a cap on the total amount of capital improvement state aid available for elections held on or after July 1, 2016. This cap cannot exceed a six-year rolling average amount for capital improvement state aid.
- The capital improvement state aid available to each school district is included on Form 242-244 provided annually in the School Finance budget packet. This amount could change on an annual basis.
- Upon receipt of an application, State Department of Education staff will schedule a hearing with school district officials to review the application. This hearing can be held in Topeka or via ITV. Members of the review committee will include:
  - Deputy Commissioner of Education
  - Director, School Finance
  - State Board of Education Member, District
  - School Administrator or Retired Administrator (not involved in the process)

- The areas of concern which will be reviewed at the hearing will be those facilities that are non-academically related.

Submit application for exceeding the bond debt limit to:

Director, School Finance  
Kansas State Department of Education  
Landon State Office Building  
900 SW Jackson Street, Ste 356  
Topeka KS 66612-1212

To submit electronically:

Create a PDF document and attach to an email to: [kalbright@ksde.org](mailto:kalbright@ksde.org)

Type into subject line: USD ### App for capital improvement

Please follow up and send a paper copy.

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## **Guidelines to Apply for Capital Improvement State Aid for USDs (not exceeding the bond debt limit)**

All forms necessary for unified school districts to make application to the State Board of Education for approval to exceed the approval to receive CISA of the school district may be obtained from the Division of Fiscal and Administrative Services of the State Department of Education. Phone number: (785) 296-3871

In accordance with KSA 72-5462, any school district that is eligible and desires to receive capital improvement state aid (bond & interest) must apply to the Kansas State Board of Education for such state aid.

Kansas law provides a cap on the total amount of capital improvement state aid available for elections held on or after July 1, 2016. This cap cannot exceed a six-year rolling average amount for capital improvement state aid.



The capital improvement state aid available to each school district is included on Form 242-244 provided annually in the School Finance budget packet. This amount could change on an annual basis. Upon receipt of an application, State Department of Education staff will schedule a hearing with school district officials to review the application. This hearing can be held in Topeka or via ITV. Members of the review committee will include:

- Deputy Commissioner of Education
- Director, School Finance
- State Board of Education Member, District
- School Administrator or Retired Administrator (not involved in the process)

All applications must be submitted to the Division of Fiscal and Administrative Services by no later than the 10th day of the month in order for action by the State Board of Education the following month.

The areas of concern which will be reviewed at the hearing will be those facilities that are non-academically related.

Submit application for capital improvement state aid to:

Director, School Finance  
Kansas State Department of Education  
Landon State Office Building  
900 SW Jackson Street, Ste 356  
Topeka KS 66612-1212

To submit electronically:

Create a PDF document and attach to an email to: [kalbright@ksde.org](mailto:kalbright@ksde.org)

Type into subject line: USD ### App for capital improvement

Please follow up and send a paper copy.

# State Board of Education – Criteria for Allocation of State Aid Appropriation

The State Board of Education will allocate the state aid amount appropriated in accordance with the following criteria:

- Safety of the current facility and disability access to such facility as demonstrated by a State Fire Marshal Report, an inspection under the federal Americans with Disabilities Act, or other similar evaluation;
- Enrollment growth and imminent overcrowding as demonstrated by successive increases in enrollment of the school district in the immediately preceding three school years;
- Impact on the delivery of educational services as demonstrated by restrictive inflexible design or limitations on installation of technology;
- Energy usage and other operational inefficiencies as demonstrated by a district-wide energy usage analysis, district-wide architectural analysis, or other similar evaluation; and
- High priority will be given to school districts with a lower assessed valuation per pupil (AVPP) compared to other districts who are to receive capital outlay state aid.
- On or after July 1, 2017, the State Board must exclude state aid for any project used primarily for extracurricular activities, unless it is necessary due to safety concerns of the current facility or disability access as demonstrated by a State Fire Marshal Report or an inspection under the Americans with Disabilities Act.

## **Required Supplemental Material to Accompany Unified School Districts Application when Exceeding the Bond Debt Limitation**

1. A copy of the published notice of intent to file the application, together with an Affidavit of Publication, must be enclosed with the application to the State Board. (Form 7-212-108)
2. An architect's schematic floor plan (8 1/2 x 11 inches, if readable, otherwise, large enough to be discernible by members of the State Board) of the proposed facilities must be included with each application.
3. A map (8 1/2 x 11 inches, if readable, otherwise large enough to be discernible by members of the State Board) of the school district showing present facilities, proposed facilities, attendance centers, and the bordering districts by number must be included with each application.
4. Form 7-212-106, Resolution to Submit Application to State Board.
5. Form 7-212-110, Application for Permission to Vote and Issue Bonds Exceeding 14%.
6. Form 7-212-114, Certified Assessed Valuation of School District.
7. Form 7-212-118, Application to Exceed 14% of Assessed Valuation.

## Required Supplemental Material to Accompany Unified School Districts Application for Capital Improvements State Aid and not exceeding the Bond Debt Limitation

1. An architect's schematic floor plan (8 ½ x 11 inches, if readable, otherwise, large enough to be discernible by members of the State Board) of the proposed facilities must be included with each application.
2. A map (8 ½ x 11 in inches, if readable, otherwise large enough to be discernible by members of the State Board) of the school district showing present facilities, proposed facilities, attendance centers, and the bordering districts by number must be included with each application.
3. Form 7-212-104, Resolution, Stating the Purpose for which Bonds are to be issued, the Estimated Amount thereof, and the Time of Election Therefor (Bond issue will not exceed general bond debt limitation).
4. Form 7-212-106, Resolution, Stating the Purpose of which Bonds are to be issued, the Estimated Amount Thereof, and the Time of Election Therefor (Bond issue will not exceed general bond debt limitation).
5. Form 7-212-114, Certified Assessed Valuation of School District.
6. Form 7-212-118(a), Questions to be Completed by USDs Requesting Capital Improvement State Aid (Bond & Interest).

## XI. Suggested Forms

1. Proper forms must be used by a school district to assure a legal school bond issuance. School district authorities are advised to always use the services of a financial adviser and an attorney in conducting a school bond election and in selling and issuing school bonds.

2. To assist school districts and their advisors, the following suggested forms have been prepared and are furnished by the State Department of Education.

*Form 7-212-100* - Application for Approval to Issue General Obligation Bonds or Temporary Notes Without an Election

*Form 7-212-102* - Resolution to Levy Tax for Capital Outlay Fund

*Form 7-212-104* - Resolution - Stating the Purpose for which Bonds are to be Issued, the Estimated Amount Thereof and the Time of Election Therefor (Bond issue not exceeding general bond debt limitation)

*Form 7-212-106* - Resolution - Stating the Purpose for which Bonds are to be Issued, the Estimated Amount Thereof, and the Time of Election Therefor (Bond issue to exceed general bond debt limitation)

*Form 7-212-108* - Notice of Intent to File an Application to Vote and Issue Bonds in Excess of General Bond Debt Limitation

*Form 7-212-110* - Application of Unified School District Board of Education for Permission to Vote and Issue Bonds in Excess of the School District's General Bond Debt Limitation

*Form 7-212-114* - Assessed Valuation of School District

*Form 7-212-116* - Suggested Notice for School District Bond Election

*Form 7-212-117* - Suggested Notice for School District Bond Election when Mail Ballot Election Act to be Followed

*Form 7-212-118* - Application to Exceed 14% of Assessed Valuation (Bond Election Questionnaire)

*Form 7-212-118(a)* - Application for Capital Improvement (Bond & Interest) State Aid (if eligible)  
*Note\*this form is in the Bond Guide Application for State Aid*

*Form 7-212-140* - Notice of Special Meeting of Board of Education

Form 7-212-100

**APPLICATION FOR APPROVAL TO ISSUE GENERAL  
OBLIGATION BONDS OR TEMPORARY NOTES WITHOUT AN ELECTION**

TO: State Board of Education

Pursuant to the authority vested in boards of education of unified school districts under K.S.A. 72-5457 to issue general obligation bonds or temporary notes, without an election, in an amount not to exceed twenty thousand dollars (\$20,000), and in accordance with a resolution duly passed by the Board of Education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, State of Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, said Board hereby requests the approval of the State Board of Education to issue \$

\_\_\_\_\_ in general obligation bonds

(write in total amount requested)

or temporary notes, for the following purpose or purposes:

PURPOSE	KSDE RECOMMENDATIONS	
___ School building repairs or asbestos control	\$ _____	(Do not use this space) School Finance
___ Building construction	\$ _____	_____
___ Acquire building	\$ _____	_____
___ Equipment	\$ _____	_____
___ School bus purchase	\$ _____	_____

The Board hereby certifies: (1) The general obligation bonds or temporary notes issued by the Board without an election will not exceed, at any one time, twenty thousand dollars (\$20,000); (2) There presently are outstanding in bonds and/or notes issued without election (indicate "none" if there are none outstanding); and (3) A full and complete transcript of the proceedings leading up to the issuance of such bonds and/or notes will be filed with the Treasurer of the State of Kansas, pursuant to Article 1, Chapter 10, Kansas Statutes Annotated.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ BOARD OF EDUCATION OF U.S.D.  
No. \_\_\_\_\_,  
County, Kansas

Attested by: \_\_\_\_\_ By: \_\_\_\_\_  
Clerk President

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NOTICE: Any temporary bonds or notes that remain uncanceled in the State Treasurer's office at the time application is made shall be considered outstanding.

## Form 7-212-102

**72-53,113. Capital outlay levy, use of proceeds; procedure; protest; petition and election; definitions.** (a) The board of education of any school district may make an annual tax levy at a mill rate not to exceed the statutorily prescribed mill rate upon the taxable tangible property in the school district for the purposes specified in this act and, with respect to any redevelopment district established prior to July 1, 2017, pursuant to K.S.A. 12-1771, and amendments thereto, for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. No levy shall be made under this act until a resolution is adopted by the board of education in the following form:

Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas.

### RESOLUTION

Be It Resolved that:

The above-named school board shall be authorized to make an annual tax levy in an amount not to exceed \_\_\_\_\_ mills upon the taxable tangible property in the school district for the purpose of acquisition, construction, reconstruction, repair, remodeling, additions to, furnishing, maintaining and equipping of school district property and equipment necessary for school district purposes, including: (1) Computer software; (2) performance uniforms; (3) housing and boarding pupils enrolled in an area vocational school operated under the board; (4) architectural expenses; (5) building sites; (6) undertaking and maintenance of asbestos control projects; (7) school buses; and (8) other fixed assets, and with respect to any redevelopment district established prior to July 1, 2017, pursuant to K.S.A. 12-1771, and amendments thereto, for the purpose of paying a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto, for the financing of redevelopment projects upon property located within the school district. The tax levy authorized by this resolution may be made, unless a petition in opposition to the same, signed by not less than 10% of the qualified electors of the school district, is filed with the county election officer of the home county of the school district within 40 calendar days after the last publication of this resolution. In the event a petition is filed, the county election officer shall submit the question of whether the tax levy shall be authorized to the electors in the school district at an election called for that purpose or at the next general election, as is specified by the board of education of the above school district.

Form 7-212-102 (continued)

**CERTIFICATE**

This is to certify that the above resolution was duly adopted by the board of education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_ Clerk of the board of education.



Form 7-212-104

(Suggested form when bond issue will not exceed the district's general bond debt limitation)

**RESOLUTION**

Stating the Purpose for which Bonds are to be Issued,  
the Estimated Amount Thereof, and the Time of Election Therefor

WHEREAS, K.S.A. 72-5457 provides in part:

"When a board determines that it is necessary to purchase or improve a site or sites, or to acquire, construct, equip, furnish, repair, remodel or make additions to any building or buildings used for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, or to purchase school buses, the board may submit to the electors of the unified district the question of issuing general obligation bonds for one or more of the above purposes, and upon the affirmative vote of the majority of those voting thereon, the board shall be authorized to issue the bonds. . ."; and

WHEREAS, the Board of Education of Unified School District No. \_\_\_\_\_,  
\_\_\_\_\_ County, State of Kansas, has determined that it is necessary to make improvements pursuant to the provisions of said law; and

WHEREAS, the aforementioned board must submit to the electors of the unified school district the question of issuing general obligation bonds in order to make such improvements.

NOW, THEREFORE, BE IT RESOLVED by the board of education of the aforementioned school district to make improvements and issue bonds as hereinafter set out in the election proposition, and to request the election officer of the county to hold a school district bond election on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in the manner prescribed in K.S.A. 25-2018(f) and in accordance with the provision of the general bond law.

BE IT FURTHER RESOLVED that the said election officer submit the following proposition to the electors of said school district:

Shall the following be adopted?

Shall Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, State of Kansas, issue school district general obligation bonds in an amount not exceeding \$ \_\_\_\_\_ for the purpose of \_\_\_\_\_

\_\_\_\_\_ pursuant to the provisions of K.S.A. 25-2018(f) and 72-5457?"

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

Board of Education Unified School District No. \_\_\_\_\_  
\_\_\_\_\_, County, Kansas

(SEAL)

Attested by:

\_\_\_\_\_(Clerk)

By: \_\_\_\_\_(President)

## Form 7-212-106

*(Suggested form when bond issue will exceed the district's general bond debt limitation)*

### RESOLUTION

Stating the Purpose for which Bonds are to be Issued,  
the Estimated Amount Thereof, and the Time of Election Therefor

WHEREAS, K.S.A. 72-5457 provides that, when a board of education determines it is necessary to purchase or improve a site or sites, or to acquire, construct, equip, furnish, repair, remodel or make additions to any building or buildings used for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, or to purchase school buses, the board may submit to the electors of the unified district the question of issuing general obligation bonds for one or more of the above purposes, and upon the affirmative vote of the majority of those voting thereon, the board shall be authorized to issue the bonds; and

WHEREAS, the Board of Education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, State of Kansas, has determined that it is necessary to make improvements pursuant to the provisions of said law, but if bonds are issued to pay the costs of such improvements, the aggregate amount of the school district's bonded indebtedness will exceed the limitation prescribed in K.S.A. 72-5457; and

WHEREAS, K.S.A. 72-5458 et seq. provides that a board of education may apply to the State Board of Education for authority to issue bonds in an amount in excess of the limitation otherwise prescribed by law; and

WHEREAS, the aforementioned Board desires to submit to the electors of the unified school district the question of issuing bonds in an amount sufficient to make the improvements deemed necessary by the Board.

NOW, THEREFORE, BE IT RESOLVED by the Board of Education of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, State of Kansas, that it is necessary to

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and the Board desires to submit to the electors of the unified school district the question of issuing general obligation bonds to pay for such improvements; and

Form 7-212-106 (continued)

BE IT FURTHER RESOLVED that the Board make application to the State Board of Education for authority to issue bonds in excess of the statutory limitation prescribed in K.S.A. 72-5457, and call and hold an election to issue bonds in excess of said limitation, all pursuant to K.S.A. 72-5458 et seq.; and

BE IT FURTHER RESOLVED that notice of the intention to file an application with the State Board of Education, as stated above, be given as provided by law to the electors of the school district by publication in the \_\_\_\_\_, a newspaper of general circulation in the district; and

BE IT FURTHER RESOLVED that, upon receiving the Order of the State Board of Education granting such application, the Board request the election officer of the home county of the school district to hold a bond election on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ in the manner prescribed in K.S.A. 25-2018(f) and in accordance with the provisions of the general bond law, submitting the following proposition to the electors of the school district:

"Shall the following be adopted?

Shall Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, State of Kansas, issue school district general obligation bonds in an amount not exceeding \$ \_\_\_\_\_ for the purpose of \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

pursuant to K.S.A. 25-2018(f), 72-5458 et. seq., and 72-5457?"

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Board of Education of  
Unified School District No. \_\_\_\_\_  
\_\_\_\_\_ County, Kansas

(SEAL)

Attested by:

\_\_\_\_\_

Clerk

By: \_\_\_\_\_

President

Form 7-212-108

NOTICE OF INTENT TO FILE AN APPLICATION FOR PERMISSION  
TO VOTE AND ISSUE SCHOOL BONDS IN EXCESS OF  
THE SCHOOL DISTRICT'S GENERAL BOND DEBT LIMITATION

To the Electors of Unified School District No. \_\_\_\_\_,  
\_\_\_\_\_ County, State of Kansas:

You are hereby notified that the Board of Education of Unified School District No. \_\_\_\_\_,  
\_\_\_\_\_ County, State of Kansas, will make and file its application with the State Board of  
Education, Topeka, Kansas, together with proof of publication of this Notice, for permission to  
issue bonds in excess of the school district's general bond debt limitation for the purpose of  
providing funds to pay the cost of

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The application will be filed pursuant to a resolution adopted by the Board of Education of said  
Unified School District on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, under the authority of K.S.A. 72-  
5458 et seq. If the application is approved, an election on the question of issuing the bonds  
will be conducted in the unified school district.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Board of Education, Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County,  
State of Kansas.

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_

Clerk

Form 7-212-110

BEFORE THE KANSAS STATE BOARD OF EDUCATION

IN THE MATTER OF THE ISSUANCE OF BONDS)  
IN EXCESS OF THE GENERAL LIMITATION BY )  
UNIFIED DISTRICT NO. \_\_\_\_, \_\_\_\_\_ )  
COUNTY, STATE OF KANSAS )

APPLICATION UNDER K.S.A. 72-5458 et seq. FOR PERMISSION TO  
VOTE AND ISSUE BONDS IN AN AGGREGATE AMOUNT EXCEEDING THE  
SCHOOL DISTRICT'S GENERAL BOND DEBT LIMITATION UNDER  
K.S.A. 72-5457

The Board of Education of Unified School District No. \_\_\_\_, \_\_\_\_\_ County, State of  
Kansas, pursuant to K.S.A. 72-5458 et seq., hereby makes application for permission to call an  
election for the purpose of permitting the electors of the unified school district vote on the  
question of issuing bonds in an aggregate amount exceeding the limitation prescribed in K.S.A.  
72-5457, and to issue bonds for the purpose or purposes stated herein.

The aggregate amount of bonds which the district can issue without authority from the State  
Board is approximately \$ \_\_\_\_\_. The existing bonded indebtedness of the  
district is \$ \_\_\_\_\_. The amount of bonds proposed to be issued is \$  
\_\_\_\_\_. Therefore, if the proposed amount of bonds is issued, the school  
district's bond indebtedness will be approximately \$ \_\_\_\_\_. This exceeds the  
district's general limitation by approximately \$ \_\_\_\_\_.

The specific purpose or purposes for which bonds are proposed to be issued is, or are, to

\_\_\_\_\_  
\_\_\_\_\_

The Board of Education has caused notice of its intention to file this application to be  
published in the form prescribed by the State Board of Education, and an affidavit concerning  
the publication of said notice is attached hereto and made a part hereof.

The Board of Education requests the State Board of Education to issue an Order authorizing  
the local Board of Education to call an election for the purpose of permitting the electors of the  
unified school district vote on the question of issuing bonds in an aggregate amount exceeding  
the limitation prescribed in K.S.A. 72-5457, and to issue bonds for the purpose or purposes  
stated herein.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Board of Education, Unified School District No. \_\_\_\_, \_\_\_\_\_ County, State of Kansas.

Attest: \_\_\_\_\_  
Clerk

By: \_\_\_\_\_  
President

Form 7-212-114

ASSESSED VALUATION OF SCHOOL DISTRICT

STATE OF KANSAS     )  
  ) SS  
COUNTY OF \_\_\_\_\_)

I, the undersigned, County Clerk of \_\_\_\_\_ County, Kansas, hereby certify that the current equalized assessed valuation of tangible taxable property of Unified School District No. \_\_\_\_ is:

Assessed valuation, except motor vehicles	\$ _____
Assessed valuation, motor vehicles	\$ _____
Total Assessed Valuation	\$ _____

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
County Clerk, \_\_\_\_\_ County

Form 7-212-116

**SUGGESTED NOTICE FOR  
UNIFIED SCHOOL DISTRICT BOND ELECTION**

(First published in the \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_.)  
(Name of official paper)

**NOTICE OF SCHOOL BOND ELECTION**

Notice is hereby given to the qualified electors of Unified School District No. \_\_\_\_ ,  
\_\_\_\_\_ County, State of Kansas, that a question submitted election has been  
called and will be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, commencing at \_\_\_\_ o'clock  
A.M., and closing at \_\_\_\_ o'clock P.M., for the purpose of submitting to the electors of the  
district the following proposition:

"Shall the following be adopted?

Shall Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, State of Kansas, issue school  
district general obligation bonds in an amount not exceeding \$ \_\_\_\_\_ for the  
purpose of: \_\_\_\_\_  
\_\_\_\_\_ pursuant to K.S.A. 25-2018(f)  
and 72-5457?"

The following additional information is provided by the District to comply with the provisions of  
K.S.A. 10-120a and 12-6,122. This information has been obtained from sources deemed  
reliable by the District. Certain of this information is based upon projections. No assurances  
can be given that these projections will be accurate as of the date of issuance of the bonds  
due to changing market conditions, changes in assessed valuation of the District, changes in  
the amount of state financial aid received by the District and other matters unknown or  
unavailable at this time. The projected rate of taxation is based upon the current assessed  
valuation of the District, adherence to the assumed principal repayment schedule, the average  
interest rates from recent bond issues for similar types of financings and the current level of  
state financial aid the District would receive with respect to the bonds.

The actual cost of the project or projects financed by the bonds is \$ \_\_\_\_\_.  
The projected amount of expenses to be incurred in the bond issuance, including, but not  
limited to, attorney's fees, underwriter fees, and printing costs, is \$ \_\_\_\_\_.  
The projected date on which the bonds normally would be retired is \$ \_\_\_\_\_.  
The projected amount of interest to be paid until the bonds are retired is \$ \_\_\_\_\_.  
The amount of the average annual payment for principal and interest is projected to be  
\$ \_\_\_\_\_

### Form 7-212-116 (continued)

The average annual local property taxation levy required to be imposed by the Board of Education is projected to be \_\_\_\_\_ mills.

Said election shall be held by ballot at the following voting places, such voting places to serve the following voting district or territories:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

By order of the \_\_\_\_\_,  
County of \_\_\_\_\_, State of Kansas, whose election headquarters are located at \_\_\_\_\_.

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and signed by the appropriate official or officials.

Attest: \_\_\_\_\_  
\_\_\_\_\_

-----  
NOTE: K.S.A. 25-2018(f) provides:

"Notice of any question submitted election of any school district shall be made in the manner provided by K.S.A. 10-120, and amendments thereto. The notice shall state (1) the name of the school district, (2) the date of the election, (3) the amount of bonds to be issued, if a bond election, (4) the proposition to be voted upon, (5) the hours of opening and closing of the polls, (6) the voting place or places and the area each voting place is to serve, and (7) any other information specifically required by law. Description of areas shall be in the terms determined by the county election officer."

K.S.A. 10-120a also mandates that the notice of any bond election include: "(1) The total amount of the bonds to be issued; (2) the amount of such bonds which represent the actual cost of the project financed by the bonds to be issued; (3) the projected amount of interest to be paid until the bonds are retired. Such projected amount shall be determined by using the interest rate from most recent bond issuances for the financing of similar projects by similar municipalities; (4) the projected amount of all expenses incurred in such bond issuance including, but not limited to, attorney fees, underwriter fees and the cost of printing such bonds; (5) the projected amount of the annual payments for principal and interest on the bonds; (6) the projected annual rate of taxation and the source of taxation necessary to retire such bonds; and (7) any other information deemed necessary by the governing body of the municipality to provide full disclosure relating to the proposed bond issue."

K.S.A. 12-6,122 contains similar notice requirements, including notice of the projected date on which the bonds would be retired.



Form 7-212-117

**SUGGESTED NOTICE FOR  
UNIFIED SCHOOL DISTRICT BOND ELECTION  
WHEN MAIL BALLOT ELECTION ACT IS FOLLOWED**

(First published in the \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_.)

(Name of official paper)

**NOTICE OF SCHOOL BOND ELECTION**

Notice is hereby given to the qualified electors of Unified School

District No. \_\_\_\_\_, County of \_\_\_\_\_, State of Kansas, that a question submitted election following the procedures of the mail ballot election act has been called and will be held on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, commencing at \_\_\_ o'clock A.M., and closing at \_\_\_\_\_ o'clock P.M., for the purpose of submitting to the electors of the district the following proposition:

"Shall the following be adopted?"

A proposition to issue general obligation bonds of Unified District No. \_\_\_\_\_, \_\_\_\_\_ County, State of Kansas, in an amount not exceeding \$ \_\_\_\_\_, for the purpose of providing funds for:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

pursuant to K.S.A. 10-101 et seq., K.S.A. 25-2018(f) and K.S.A. 72-5457."

Said election shall be conducted pursuant to the mail ballot election act, K.S.A. 25-431 et seq. The county election officer shall mail all official ballots with a return identification envelope and instructions sufficient to describe the voting process to each elector entitled to vote in the election on one date not sooner than the 20th day before

the date of the election and not later than the 10th day before the election. Ballots mailed by the county election officer shall be addressed to the address of each elector appearing in the registration records, and placed in an envelope which is prominently marked "Do Not Forward."

By order of the \_\_\_\_\_, County of \_\_\_\_\_, State of Kansas whose election headquarters are located at \_\_\_\_\_.

Form 7-212-117 (continued)

*Notice of School Bond Election – Mail Ballot*

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and signed by the appropriate official or officials.

\_\_\_\_\_  
Attest: \_\_\_\_\_  
\_\_\_\_\_

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(For a summary of the Mail Ballot Election Act, see pages 2 and 3 of this Guide.)

NOTE: K.S.A. 25-2018(f) provides:

"Notice of any question submitted election of any school district shall be made in the manner provided by K.S.A. 10-120, and amendments thereto.

The notice shall state (1) the name of the school district, (2) the date of the election, (3) the amount of bonds to be issued, if a bond election, (4) the proposition to be voted upon, (5) the hours of opening and closing of the polls, (6) the voting place or places and the area each voting place is to serve, and (7) any other information specifically required by law. Description of areas shall be in the terms determined by the county election officer."

K.S.A. 72-5457 also mandates that the board give notice of bond election in the manner prescribed in K.S.A. 10-120, and any amendments thereof.

Form 7-212-118

BOND ELECTION QUESTIONNAIRE

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APPLICATION FOR APPROVAL TO VOTE FOR BOND ISSUANCE  
EXCEEDING 14% OF ASSESSED VALUATION

Questions to be completed by USDs applying for approval under K.S.A. 72-5458 et seq., to vote on a bond issuance exceeding the school district's general bond debt limitation.

1. What is the specific purpose and the amount of the bonds proposed to be issued?
2. Explain how the proposed building project will facilitate, and be coordinated with, the school improvement plan of the district.
3. Explain why the Board of Education believes the proposed construction project which is presented in this application is the most effective and efficient way in which education can be provided for the students in this district?
4. Did you use an advisory committee(s) to determine the need for new facilities? Yes \_\_\_ No \_\_\_ If yes, please submit the committee's report or any relevant documents.
5. Briefly explain the amount and type of information that has been provided to the school district electors concerning the proposed bond issue.

a. What is the need? b. How will the bonds meet this need?

6. a. What is the estimated average mill levy required for the retirement of the proposed bond issue? \_\_\_\_\_

(Submit a schedule of the principal and interest payments)

- b. What is the number of years the bond issue will run? \_\_\_\_\_

- c. What was the total mill levy for the last five years?

Year	Total Levy	Bond & Interest Levy
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- d. What year will the present bond indebtedness be retired? \_\_\_\_\_

Form 7-212-118 (continued)

Bond Election USD Questionnaire

Questions to be completed by USD's

7. a. What is the estimated enrollment K-12 (FTE) for the next five years?

September, 20\_\_ \_\_\_\_\_

September, 20\_\_ \_\_\_\_\_

September, 20\_\_ \_\_\_\_\_

September, 20\_\_ \_\_\_\_\_

September, 20\_\_ \_\_\_\_\_

b. Please explain why, in your estimation, your enrollment will increase or decrease?

8. a. What has your enrollment been for the last five years (FTE) by grade?

	Sept., 20__	Sept., 20__	Sept., 20__	Sept., 20__	Sept., 20__
K	_____	_____	_____	_____	_____
1	_____	_____	_____	_____	_____
2	_____	_____	_____	_____	_____
3	_____	_____	_____	_____	_____
4	_____	_____	_____	_____	_____
5	_____	_____	_____	_____	_____
6	_____	_____	_____	_____	_____
7	_____	_____	_____	_____	_____
8	_____	_____	_____	_____	_____
9	_____	_____	_____	_____	_____
10	_____	_____	_____	_____	_____
11	_____	_____	_____	_____	_____
12	_____	_____	_____	_____	_____
Spec Ed.	_____	_____	_____	_____	_____
Total	_____	_____	_____	_____	_____

b. Explain why, in your estimation, your enrollment has increased or decreased?

Form 7-212-118 (continued)

Bond Election USD Questionnaire

9. Do you anticipate any new school building construction in the near future other than what is being proposed in the application?

Yes \_\_\_ No \_\_\_ If yes, please explain.

10. a. What is the student capacity of the current facility(ies)? \_\_\_\_\_  
b. What is the student capacity of the proposed facility(ies)? \_\_\_\_\_  
c. How many square feet are in the proposed facility(ies)? \_\_\_\_\_  
d. Have you obtained a professional opinion on your current facility(ies)? Yes \_\_\_ No \_\_\_ If so, please submit a copy.

11. If the proposed new facility(ies) is a replacement, what are your plans for disposition or use of the old building(s)?

12. Has this proposition been previously submitted? Yes \_\_\_ No \_\_\_  
When? \_\_\_\_\_ In what amount? \_\_\_\_\_  
Why did it fail, in your opinion?

13. When was the last bond election held? Month \_\_\_\_\_ Year \_\_\_\_\_  
Vote: For \_\_\_\_\_ Against \_\_\_\_\_

14. What was the date of your last successful bond election? Month \_\_\_\_\_ Year \_\_\_\_\_  
Vote: For \_\_\_\_\_ Against \_\_\_\_\_

15. What was the district's assessed valuation during the last five years?

<u>Year</u>	<u>Assessed Valuation</u>
20__	_____
20__	_____
20__	_____
20__	_____
20__	_____

16. Does your bond issue include any facilities that would be used primarily for extracurricular activities?

Yes \_\_\_ No \_\_\_

If yes, what is the facility and cost?

Form 7-212-118 (concluded)

Bond Election USD Questionnaire

17. Was the construction, reconstruction or remodeling of such facility in question 16 necessary due to concerns relating to the safety or disability access to such facility as demonstrated by a state fire marshal report, an inspection under the American Disabilities Act or other similar evaluation?

Yes \_\_\_ No \_\_\_

18. a. Does your district meet the “Extraordinary declining enrollment” which means an enrollment which has declined during the preceding three school years at a rate of at least 5% per year or by at least 50 pupils per year, whichever is greater? The board of education of any school district shall not authorize the issuance of any bonds for the construction of a new building without having first advised and consulted with the joint committee?

Yes\_\_\_ No\_\_\_

b. Is your district construction a new building?

Yes\_\_\_ No\_\_\_

If the answer is yes for both questions then prior to the date of the hearing of the joint committee at which the board is scheduled to appear, the board shall submit any information requested by the joint committee. Following such hearing, the committee shall make a recommendation on the advisability of the proposed issuance of bonds. A copy of the committee’s recommendation shall be provided to the school district and to the state board of education within 15 days of the date of the hearing. If the joint committee recommends against the issuance of any bonds for the construction of a new building and if the district proceeds to issue bonds for such construction, the district shall not be entitled to, and shall not receive, state aid for such bonds under K.S.A 72-5462 , and amendments thereto, unless approved by the state board. The provisions of this section shall not apply to any district which is not entitled to state aid under K.S.A 72-5462, and amendments thereto.

Form 7-212-118a

**BOND ELECTION QUESTIONNAIRE**

**APPLICATION FOR CAPITAL IMPROVEMENT (BOND & INTEREST) STATE AID FOR USDS NOT EXCEEDING THE 14% BOND DEBT LIMIT**

Questions to be completed by USDs applying for approval under K.S.A. 72-5462 requesting capital improvement (bond & interest) state aid.

1. What is the specific purpose and the amount of the bonds proposed to be issued? (By project and cost)
2. Explain how the proposed building project will facilitate, and be coordinated with, the school improvement plan of the district.
3. Why does your board of education believe that this project meets the criteria for capital improvement state aid (bond & interest)?
4. Explain how the proposed building project will facilitate, and be coordinated with, the school improvement plan of the district.
5. Explain why the Board of Education believes the proposed construction project which is presented in this application is the most effective and efficient way in which education can be provided for the students in this district?
6. Did you use an advisory committee(s) to determine the need for new facilities?  
 Yes \_\_\_ No \_\_\_  
 If yes, please submit the committee’s report or any relevant documents.
7. Briefly explain the amount and type of information that has been provided to the school district electors concerning the proposed bond issue.
  - a. What is the need? b. How will the bonds meet this need?
8.
  - a. What is the estimated average mill levy required for the retirement of the proposed bond issue? \_\_\_\_\_  
 (Submit a schedule of the principal and interest payments)
  - b. What is the number of years the bond issue will run? \_\_\_\_\_
  - c. What was the total mill levy for the last five years?
 

Year	Total Levy	Bond & Interest Levy
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
  - d. What year will the present bond indebtedness be retired? \_\_\_\_\_

Form 7-212-118a (concluded)

9. a. What is the estimated enrollment K-12 (FTE) for the next five years?

September, 20 \_\_\_\_  
 September, 20 \_\_\_\_  
 September, 20 \_\_\_\_  
 September, 20 \_\_\_\_  
 September, 20 \_\_\_\_

b. Please explain why, in your estimation, your enrollment will increase or decrease?

10. a. What has your enrollment been for the last five years (FTE) by grade?

	Sept., 20__	Sept., 20__	Sept., 20__	Sept., 20__	Sept., 20__
K	_____	_____	_____	_____	_____
1	_____	_____	_____	_____	_____
2	_____	_____	_____	_____	_____
3	_____	_____	_____	_____	_____
4	_____	_____	_____	_____	_____
5	_____	_____	_____	_____	_____
6	_____	_____	_____	_____	_____
7	_____	_____	_____	_____	_____
8	_____	_____	_____	_____	_____
9	_____	_____	_____	_____	_____
10	_____	_____	_____	_____	_____
11	_____	_____	_____	_____	_____
12	_____	_____	_____	_____	_____
Spec Ed.	_____	_____	_____	_____	_____
Total	_____	_____	_____	_____	_____

b. Explain why, in your estimation, your enrollment has increased or decreased?

11. Do you anticipate any new school building construction in the near future other than what is being proposed in the application?

Yes \_\_\_\_ No \_\_\_\_ If yes, please explain.

12. a. What is the student capacity of the current facility(ies)? \_\_\_\_\_  
 b. What is the student capacity of the proposed facility(ies)? \_\_\_\_\_  
 c. How many square feet are in the proposed facility(ies)? \_\_\_\_\_  
 d. Have you obtained a professional opinion on your current facility(ies)? Yes \_\_\_\_ No \_\_\_\_ If so, please submit a copy.



Form 7-212-118a (concluded)

13. If the proposed new facility(ies) is a replacement, what are your plans for disposition or use of the old building(s)?
  
14. Has this proposition been previously submitted? Yes \_\_\_ No \_\_\_  
 When? \_\_\_\_\_ In what amount? \_\_\_\_\_  
 Why did it fail, in your opinion? \_\_\_\_\_
  
15. When was the last bond election held? Month \_\_\_\_\_ Year \_\_\_\_\_  
 Vote: For \_\_\_\_\_ Against \_\_\_\_\_
  
16. What was the date of your last successful bond election? Month \_\_\_\_\_ Year \_\_\_\_\_
  
17. What was the district’s assessed valuation during the last five years?  

Year	Assessed Valuation
20__	_____
20__	_____
20__	_____
20__	_____
20__	_____
  
18. Does this bond issue include any facilities that are primarily for extracurricular activities. If yes, what is the facility and cost?  
 Yes \_\_\_ No\_\_\_
  
19. Was the construction, reconstruction or remodeling of such facility in question 19 necessary due to concerns relating to the safety or disability access to such facility as demonstrated by a state fire marshal report, an inspection under the American Disabilities Act or other similar evaluation?  
 Yes \_\_\_ No \_\_\_
  
20. a. Does your district meet the “Extraordinary declining enrollment” which means an enrollment which has declined during the preceding three school years at a rate of at least 5% per year or by at least 50 pupils per year, whichever is greater? The board of education of any school district shall not authorize the issuance of any bonds for the construction of a new building without having first advised and consulted with the joint committee?  
 Yes\_\_\_ No\_\_\_
  
- b. Is your district construction a new building?

## Form 7-212-118a (concluded)

Yes\_\_\_ No\_\_\_

If the answer is yes for both questions then prior to the date of the hearing of the joint committee at which the board is scheduled to appear, the board shall submit any information requested by the joint committee. Following such hearing, the committee shall make a recommendation on the advisability of the proposed issuance of bonds. A copy of the committee's recommendation shall be provided to the school district and to the state board of education within 15 days of the date of the hearing. If the joint committee recommends against the issuance of any bonds for the construction of a new building and if the district proceeds to issue bonds for such construction, the district shall not be entitled to, and shall not receive, state aid for such bonds under K.S.A 72-5462 , and amendments thereto, unless approved by the state board. The provisions of this section shall not apply to any district which is not entitled to state aid under K.S.A 72-5462, and amendments thereto.

## Board of Education: Calling a Special Meeting

Special meetings of school boards should be called and held in accordance with the provisions of K.S.A. 72-1138, as amended, which provides, in relevant part, as follows:

"Special meetings may be called at any time by the president of the board or by joint action of any three members of the board. Unless waived, written notice, stating the time and place of any special meeting and the purpose for which called shall be given each member of the board at least two days in advance of the special meeting and no business other than that stated in the notice shall be transacted at such meeting."

A proposed notice of a special meeting is set forth below.

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Form 7-212-140

### NOTICE OF SPECIAL MEETING OF BOARD OF EDUCATION

\_\_\_\_\_  
(date)

A special meeting of the board of education, Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas, is hereby called to be held at the \_\_\_\_\_ at \_\_\_\_\_ .m., on \_\_\_\_\_, the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, for the purpose of considering the calling of an election to vote upon the question of issuing bonds of the school district for the purpose or purposes of \_\_\_\_\_

(day of week) (month) (year)

(Here state the specific purpose or purposes of the proposed bond issue as authorized by K.S.A. 72-5457.) (As provided by K.S.A. 72-1138, no business other than that stated in the notice can be transacted at any special meeting; thus, any other business to be transacted also must be set out specifically in the notice.)

By order of the President of the Board of Education (or, By request of \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_, members of the board of education) \* of Unified School District No. \_\_\_\_\_, \_\_\_\_\_ County, Kansas.

\_\_\_\_\_  
District Clerk

\* Omit language in parenthesis if the meeting is called by order of the President of the Board of Education

# Primary Statutory Authority for Issuance of School Bonds

General obligation bonds: purpose for issuance; when election required; contest of validity; limitations; temporary notes and tax levy.

- (a) The board of education of a school district is authorized to select any site or sites necessary for school district purposes. When a board determines that it is necessary to purchase or improve a site or sites, or to acquire, construct, equip, furnish, repair, remodel or make additions to any building or buildings used for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, or to purchase school buses, the board may submit to the electors of the unified district the question of issuing general obligation bonds for one or more of the above purposes, and upon the affirmative vote of the majority of those voting thereon, the board shall be authorized to issue the bonds. The board shall adopt a resolution stating the purpose for which bonds are to be issued and the estimated amount thereof. The board shall give notice of the bond election in the manner prescribed in K.S.A. 10-120, and amendments thereto, and the election shall be held in accordance with the provisions of the general bond law. No action shall be brought in any court to contest the validity of any election held under this subsection, nor to contest any of the proceedings preliminary thereto, except within 90 days immediately following certification of the results of the election. The aggregate amount of bonds of a board outstanding at any time, exclusive of bonds specifically exempted from statutory debt limitations, shall be limited to 14% of the assessed valuation of taxable tangible property within the school district, except that such limitation may be modified as provided in article 23 of chapter 75 of Kansas Statutes Annotated. The bonded debt limitation prescribed by amendment of this subsection shall not be applied in any manner so as to affect the validity of any bonds of a board which are outstanding on the effective date of this act.
- (b) Any board of education may issue, without an election but with the approval of the state board of education, bonds to construct or acquire buildings to be used for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board, to repair school district buildings, to acquire equipment, or to purchase school buses, in an amount not to exceed \$20,000. Bonds issued without an election under this subsection shall not be subject to any bonded debt limitations nor shall the bonds be considered in determining the bonded indebtedness of any school district, and the total amount of bonds outstanding which are issued hereunder without an election shall not at any one time exceed \$20,000.
- (c) In lieu of bonds, temporary notes may be issued under K.S.A. 10-123, and amendments thereto, and the notes may be retired, at the option of the board of education, by tax

levies made under K.S.A. 10-113, and amendments thereto.

- (d) To the extent that the provisions of any other law pertaining to the determination of limitations on bonded debt of school districts conflict with the provisions of this section, the provisions of this section shall control. (K.S.A. 72-5457).

#### **Modification of bond limitation; order authorizing vote; limitations.**

The state board of education may issue an order authorizing any school district to vote bonds for the purpose of purchasing or improving a site or sites, constructing, furnishing, equipping, repairing, remodeling or making additions to buildings necessary for school district purposes, including housing and boarding pupils enrolled in an area vocational school operated under the board of education of the school district, or purchasing school buses to an amount to be determined by the state board of education and in addition to, the amount of bonds which the district may be otherwise authorized to issue. (K.S.A. 72-5459)

#### **Application for additional bonds; publication notice; rules and regulations.**

The board of education of any school district may make application upon its own motion to the state board of education for the additional authority provided for in K.S.A. 72-5459, and amendments thereto, and shall make such an application upon being presented with a petition, signed by not less than 51% of the qualified electors of the school district, requesting the making of such an application. Notice of the intention to make such an application shall be given to the electors by a publication in a newspaper of general circulation in the school district, in form to be prescribed by the state board of education. The state board of education may adopt rules and regulations necessary to properly carry out the provisions of this act, including rules in relation to the evidence required in support of the application and the method of furnishing such evidence. (K.S.A. 72-5460)

#### **Application for additional bonds; review of application; order; election.**

Upon receiving an application under K.S.A. 72-5460, and amendments thereto, the state board of education shall review the application and examine the evidence furnished in support of the application. After reviewing the application and examining the supportive evidence, the state board of education shall issue an order either granting or denying the application. If the application is approved, the applicant board of education shall request the county election officer to hold an election to vote upon the question of issuing the increased amount of bonds in the manner provided by law. (K.S.A. 72-5461)

#### **County Election officer to conduct school elections; time of elections.**

Election of board members and question submitted elections shall be conducted by the county election officer of the home county of the school district. Board member general elections shall be held on the first Tuesday in April of each odd-numbered year. If a primary election is required to be held, such primary election shall be held on the Tuesday preceding by five weeks the first Tuesday in April of odd-numbered years. (K.S.A. 25-2010)

**Certification of school offices to be filled; requirements for publication.**

(a) Notices of board member elections and question submitted elections of a school district shall be made as provided in this section.

(f) Notice of any question submitted election of any school district shall be made in the manner provided by K.S.A. 10-120, and amendments thereto. The notice shall state (1) the name of the school district, (2) the date of the election, (3) the amount of bonds to be issued, if a bond election, (4) the proposition to be voted upon, (5) the hours of opening and closing of the polls, (6) the voting place or places and the area each voting place is to serve, and (7) any other information specifically required by law. Description of areas shall be in the terms determined by the county election officer. (K.S.A. 25-2018(f))

**Bond elections; frequency limitation.**

No school district shall call or hold more than one special bond election at a time other than a general election or the election of board of education members within any one calendar year; nor shall any special bond election be held within sixty (60) days before or after a general election or election of members of the board of education of such district. The provisions of this act shall not prohibit the planning for or consideration of any bond election during the period between authorized bond elections, nor shall this act prohibit notice or other preparation for election during such period.

The provisions of this act shall have no application to any capital outlay tax levy or election for authorization thereof. This act shall apply to every school district offering any of grades one to twelve and to community junior colleges.

This section shall not apply to bond elections held for the purpose of replacing, or repairing and equipping school buildings or facilities destroyed or substantially damaged by fire, windstorm, flood or other casualty, if approval for such election is obtained from the state board of education. (K.S.A. 25-2019)

**Expenses subject to apportionment; payment by county; reimbursement; basis for apportionment.**

- (a) Election expenses of all primary, general and question submitted elections which are township, city, school or community junior college elections shall be paid by the boards of county commissioners of the respective counties. . .
- (b) The district expenses of any primary, general and question submitted elections which are township, city, school or community junior college elections, except for any such election held on a day when every registered voter in the county is authorized to vote at one election or another, shall be reimbursed to the county by the township, city, school or community junior college district for which such expenses are incurred. Indirect expenses of such elections shall not be reimbursed to the county. All costs of publication of notices of election shall be reimbursed to the county by the township, city, school district or community junior college to which the notice applies.

- (c) Whenever reimbursement to the county is required under subsection (b), the direct expenses of any election held at the same time and in the same area as an election for another subdivision of government shall be apportioned among the subdivisions of government for which such expenses are incurred, in equal proportions. In the event that the subdivisions of government sharing the expense of an election are not coextensive in territory, the subdivisions of government which does not extend into a particular area shall not share in the expense of the voting place for such area. (K.S.A. 25-2201)

# Excerpts from Chapter 10 & 12 – Kansas Statutes Annotated

Bonds issued by any school district shall be signed by the president of the board of education, attested by the clerk and countersigned by the treasurer of the board. . . . Any interest coupons shall be signed by the president of the board of education and the clerk. Any interest coupons attached to any bond may be signed with a facsimile of the signature of the officer required to sign such interest coupons. (K.S.A. 10-105)

## Registration of Bonds.

The clerk of the board shall register all bonds issued by the district in the clerk's office. A unified school district board may elect to register the district's bonds with the county clerk in each county in which there is located any part of the school district. (K.S.A. 10-107)

## Transcript of proceedings and bonds to state treasurer; fee for registration or certification; bond services fee fund; transmission to attorney general to determine sufficiency; return of bonds to municipality.

(a) Before any bonds become a valid obligation, a full and complete transcript of the proceedings leading up to the issuance thereof, properly certified by the clerk, secretary or other recording officer of the municipality proposing to issue such bonds, shall be transmitted to the state treasurer, together with the bonds proposed to be issued and any coupons attached thereto. The state treasurer shall submit such transcript to the attorney general for the purpose of determining the sufficiency of the transcript. Upon receiving written approval of such sufficiency, the state treasurer shall register such bonds in the municipal bond register in the state treasurer's office. Thereupon, the state treasurer, under seal of office, shall certify upon the bonds the fact that they have been registered.

(b) The state treasurer is hereby authorized to fix, charge and collect fees for registration or certification under this section. Fees for registration or certification of bonds shall be fixed: (1) For each bond issue for which the state treasurer serves as paying agent, a fee of not more than \$30 per issue, and (2) for each bond issue for which the state treasurer does not serve as paying agent, a fee of not more than \$30 per issue and a fee of not more than \$.30 per bond in the issue. All such fees received shall be deposited in the state treasury to the credit of the bond services fee fund, which is hereby created. All expenditures from the bond services fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the state treasurer or a person or persons designated by the state treasurer.

(c) Bonds which have been registered under this section shall be returned to the municipality issuing the same. The state treasurer may make personal delivery of the bonds to the purchaser or to an authorized officer or agent of the municipality at the office of the state treasurer. In lieu of return by personal delivery, the state treasurer may return the bonds by



registered or certified mail, return receipt of addressee only, or by any other method prescribed in writing by the municipality. All returns shall be at the expense of the municipality and moneys received to reimburse the state treasurer for return charges shall be deposited in the state treasury and credited to the bond services fee fund created by this section.

(d) The attorney general shall appoint an additional assistant attorney general for the purpose of determining the sufficiency of transcripts submitted to the attorney general by the state treasurer. (K.S.A. 10-108)

#### **Bond election; publication of notice.**

Whenever an election is required for the issuance of bonds for any purpose by any municipality other than an irrigation district or where a different procedure for giving notice of the election is specifically provided by law, upon compliance with the legal requirements necessary and precedent to the call for the election, the proper municipal officers shall call an election. The election shall be held within 45 days after compliance with the necessary requirements, or within 90 days, should the longer period include the date of a general election.

Notice of the election shall be published in a newspaper of general circulation in the municipality once each week for two consecutive weeks. The first publication shall be not less than 21 days prior to the election. The notice shall set forth the time and place of holding the election and the purpose for which the bonds are to be issued and shall be signed by the county election officer. The election shall be held at the usual place of holding elections and shall be conducted by the officers or persons provided by law for holding elections in the municipality. (K.S.A. 10-120)

#### **Bond election; notice requirements**

a) When used in this section, any “municipality” means county, township, city, municipal university, school district and any other taxing district or political subdivision of the state which is, or may be, authorized to issue bonds.

(b) Whenever any municipality proposes to issue bonds and an election is required to be held prior to such issuance, the governing body of such municipality shall include in the notice of such election the following:

- (1) The total amount of the bonds to be issued;
- (2) The amount of such bonds which represent the actual cost of the project financed by the bonds to be issued;
- (3) The projected amount of interest to be paid until the bonds are retired. Such projected amount shall be determined by using the interest rate from most recent bond issuances for the financing of similar projects by similar municipalities;

- (b) (4) The project amount of all expenses incurred in such bond issuance including, but not limited to, attorney fees, underwriter fees and the cost of printing such bonds;
- (5) The projected amount of the annual payments for principle and interest on the bonds;
- (6) The projected annual rate of taxation and the source of taxation necessary to retire such bonds; and
- (7) Any other information deemed necessary by the governing body of the municipality to provide full disclosure relating to the proposed bond issue.

(c) For the purposes of this section, an election is required to be held whenever a law specifically requires an election to be called or whenever a law authorizes the filing of a petition requesting an election and a sufficient petition is filed as required by such law.

(d) Nothing in this section shall be grounds to challenge the validity of the election on or the issuance of such bonds if the governing body has made a good faith effort to make accurate projections based upon the information available to the governing body at the time of making such projecting. (K.S.A. 10-120a.)

**Public improvements; notice requirements when election is to be called.**

(a) When used in this section, “municipality” means any county, township, city, municipal university, school district and any other taxing district or political subdivision of the state.

(b) Whenever the governing body of any municipality proposes to make a public improvement and the question of making or financing such improvement is submitted for approval by the qualified electors of the municipality, the governing body shall include in the notice of such election:

- (1) The type of public improvement to be made;
- (2) The projected cost of making such public improvement;
- (3) The projected cost of professional services to be acquired and paid for in conjunction with such improvement, including, but not limited to, architectural, engineering, legal, bond underwriting, financial advisory, bond rating and other services;
- (4) If bonds are to be issued, the projected date on which the bonds would be retired;
- (5) If sales and use taxes are to be levied, the projected date on which the proposed tax will expire; and
- (6) Any other information deemed necessary by the governing body of the municipality to provide full disclosure relating to the proposed public improvement.

Nothing in this subsection shall be grounds to challenge the validity of the election on the improvement or the method of financing the improvement and expenses related thereto if the governing body has made a good faith effort to comply with the

requirements of this subsection based upon the information available to the governing body at the time of the publication of the notice.

(c) If at any time after an election is held authorizing the financing or making of an improvement and prior to the letting of contracts for such improvement, the governing body of the municipality determines that the cost of the improvement will exceed, by at least 20%, the amount of the projected cost stated in the notice of the election as required by subsection (b), the governing body shall not authorize the letting of contracts for such improvement until the governing body publishes a notice in a newspaper of general circulation within the municipality of the time, date and place of a public hearing before the governing body concerning the cost of the public improvement. At such hearing the governing body shall explain the basis for the variance in costs for the public improvement from projected costs published in accordance with subsection (b) and receive comments from the public thereon.

(d) After the hearing required by subsection (c), the governing body may:

- (1) Authorize the letting of contracts for the completion of the public improvement;
- (2) Determine the project is not feasible and not let the contracts; or
- (3) Submit the question of making such improvement and the method of financing such project to the qualified electors of the municipality. Such election shall be called and held in the manner provided by the general bond law.

(e) If the governing body of the municipality determines that the continuation of the public improvement project is not feasible or the question submitted to the qualified electors in accordance with subsection (d) is not approved at the election held thereon, the governing body shall not issue bonds or, if the project is to be financed in accordance with a retailers' sales tax in accordance with K.S.A. 12-187 et seq., and amendments thereto, the governing body shall repeal that portion of such tax attributable to the financing of the public improvement project in the manner provided by K.S.A. 12-187, and amendments thereto. No portion of a countywide retailers' sales tax shall be repealed for the reasons set forth in this subsection unless and until the governing bodies of the county and all the cities therein adopt resolutions providing therefor. (K.S.A. 12-6,122.)

**Fees for review and examination of transcripts for municipal bond issues; bond transcript review fee fund.**

The attorney general is hereby authorized to fix, charge and collect fees for review and examination of the transcripts of the proceedings of municipalities for the issuance of municipal bonds under K.S.A. 10-108, and amendments thereto. Fees for such review and examination of transcripts for municipal bond issues shall be fixed in order to recover all or part of the direct operating expenses incurred therefor. All such fees received shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the bond transcript review fee fund,

which is hereby created. All expenditures from the bond transcript review fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or a person or persons designated by the attorney general. (K.S.A. 75-750)

**Bonds required to be printed; recitals.**

All municipal bonds shall, unless otherwise approved by the attorney general, be composed in type and printed. Such bonds shall constitute a general obligation of the municipality issuing the same and shall recite the authority under which they are issued and that they are issued in conformity with the provisions, restrictions and limitations thereof and that such bonds and the interest thereon are to be paid by such municipality, and such recital when said bonds have been duly registered as herein provided, shall import absolute verity and shall be conclusive in favor of all persons purchasing said bonds, that all proceedings and conditions precedent have been had and performed to authorize the issuance of such bonds and such bonds shall be negotiable. (K.S.A. 10-112)

**Levies for sinking fund; penalty for failure to make.**

It shall be the duty of the proper officers charged with the levying of taxes to levy in each year a sum sufficient to pay the interest and principal on such bonds: provided, if the bonds mature in such manner as to require it, there may be levied during the first year in which a tax is to be collected two installments with not to exceed interest for two years, or one installment and interest for one year or more, and the last levy on any bond issue shall contain the installment with the interest to date of maturity of the last bond outstanding. (K.S.A. 10-113)

**Printing of coupons; size and form.**

If any coupons are attached to bonds issued by the state of Kansas or any political subdivision thereof, they shall be sized approximately 2 inches in width and no smaller than 3 ¼ inches in length or larger than 4 ¼ inches in length but such dimensions may be varied as required by the state treasurer with the approval of the attorney general.

The following information shall be shown upon the face of such coupons:

- (a) The name of the state of Kansas or the political subdivision thereof issuing such bond and coupon;
- (b) the place at which the same are made payable;
- (c) the kind, series, issue date and number of the bond to which the coupon appertains;
- (d) the facsimile signatures of the officials authorized to sign the coupon;
- (e) the date of maturity;
- (f) the amount of the coupon;
- (g) the number of the coupon; and
- (h) the state treasurer's registration number.

The state treasurer, with the approval of the attorney general, shall prescribe the arrangement of the information on the bond coupon and may also prescribe the types of ink, type fonts and type sizes that will facilitate the reading of such coupons on optical character reading equipment. (K.S.A. 10-126)

# Investment of Idle Funds (K.S.A 10-131)

## Investment of proceeds of bonds or temporary notes and certain funds authorized; disposition of interest received therefrom.

(a) The governing body of any municipality, as defined in K.S.A. 10-101, and amendments thereto, which has issued or may issue bonds or temporary notes for any purpose, is hereby authorized and empowered to invest any portion of the proceeds of such bonds, notes of funds held pursuant to the resolution or ordinance authorizing the issuance of such bonds or notes, which is not currently needed, in:

- (1) Investments authorized by K.S.A. 12-1675, and amendments thereto, in the manner prescribed therein;
- (2) the municipal investment pool established pursuant to K.S.A. 12-1677a, and amendments thereto;
- (3) direct obligations of the United States government or any agency thereof;
- (4) the municipality's temporary notes issued pursuant to K.S.A. 10-123, and amendments thereto;
- (5) interest-bearing time deposits in commercial banks located in the county or counties in which the municipality is located;
- (6) subject to the limitations provided in subsection (b), obligations of the federal national mortgage association, federal home loan banks or the federal home loan mortgage corporation;
- (7) repurchase agreements for securities described in (3) or (6);
- (8) investment agreements with or other obligations of a financial institution the obligations of which at the time of investment are rated in either of the three highest rating categories by Moody's investors service or Standard and Poor's corporation;
- (9) investments in shares or units of a money market fund or trust the portfolio of which is comprised entirely of securities described in (3) or (6);
- (10) receipts evidencing ownership interests in securities or portions thereof described in (3) or (6);
- (11) municipal bonds or other obligations issued by any municipality of the state of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which are general obligations of the municipality issuing the same; or
- (12) bonds of any municipality of the state of Kansas as defined in K.S.A. 10-1101, and amendments thereto, which have been refunded in advance of their maturity and are fully secured as to payment of principal and interest thereon by deposit in trust, under escrow agreement with a bank, of securities described in (3) or (6). The interest

received on any such investment shall upon receipt thereof be set aside and used for the purpose of paying interest on the bonds or notes issued or used for paying the cost of the project for which the bonds or notes were issued.

(b) No moneys authorized to be invested pursuant to subsection (a) shall be invested in a derivative. For the purposes of this section, "derivative" means any investment instrument whose market price is derived from the fluctuating value of an underlying asset, index, currency, futures contract, including futures, options and collateralized mortgage obligations. (K.S.A. 10-131)

# School Bidding Law

## School district expenditures over \$20,000; requirements relating to bids and bidders; exemptions.

a) No expenditure involving an amount greater than \$20,000 for construction, reconstruction or remodeling or for the purchase of materials, goods or wares shall be made by the board of education of any school district except upon sealed proposals, and to the lowest responsible bidder.

(b) The provisions of subsection (a) do not apply to expenditures by a board of education for the purchase of:

(1) Services;

(2) Products required to be purchased under the provisions of K.S.A. 75-3317 through 75-3322, and amendments thereto;

(3) educational materials directly related to curriculum and secured by copyright;

(4) motor fuels required to provide or furnish transportation;

(5) foods and foodstuffs necessary for the implementation or operation of any child nutrition program;

(6) articles or products that are produced, manufactured or provided by inmates under the prison-made goods act of Kansas;

(7) materials, goods or wares required for reconstructing, remodeling, repairing or equipping buildings when such purchase has been necessitated by the occurrence of a loss against which the board of education has purchased property or casualty insurance; and

(8) materials, goods or wares which are purchased:

(A) From vendors who have entered into contracts with the state director of purchases pursuant to state purchasing statutes for purchases by state agencies;

(B) under the same pricing provisions established in the state contracts, subject to agreement of the vendor to honor the state contract prices; and

(C) under the same pricing provisions established in federal, national or other state contracts facilitated by a federal or local governmental entity or agency, subject to:

(i) Agreement of the vendor to honor the contract prices; and

(ii) approval by the board of education for expenditures in an amount greater than \$20,000.



c) Whenever the board of education of any school district lets bids for the purchase of materials, goods or wares and bids are submitted by bidders domiciled within the school district and by bidders domiciled outside the school district and the low bid is submitted by a bidder domiciled outside the school district, the school district domiciliary which submitted the lowest bid may be deemed the preferred bidder and awarded the bid if:

- (1) The quality, suitability and usability of the materials, goods or wares are equal;
- (2) the amount of the bid of the school district domiciliary is not more than 1% greater than the amount of the low bid; and
- (3) the school district domiciliary agrees to meet the low bid by filing a written agreement to that effect within 72 hours after receiving notification of being deemed the preferred bidder.

(d) The provisions of subsection (c) do not apply to expenditures for construction, reconstruction or remodeling. (K.S.A. 72-1151)

# Laws Applicable to Construction of School Facilities

## School buildings; definition; inspection; correction of violations; closing in lieu of repair; judicial review.

- (a) As used in this act, "school building" means any building or structure operated or used for any purpose by, or located upon the land of, any school district, community college district, area vocational school, area vocational-technical school, institution under the state board of regents or any private or nonpublic school, college or university, whether or not operated for profit. The term school building does not include within its meaning any single-family dwelling or duplex constructed as part of a vocational education program or construction trades class if such single-family dwelling or duplex is to be sold, after its construction, for private use.
- (b) All school buildings shall be inspected at least once each year. In all cities of the first and second class in which there is a full-time fire chief or full-time fire inspector, the inspection of the school buildings shall be conducted by such chief or inspector. The chief or inspector shall report the findings from the inspection to the state fire marshal within 30 days after such inspection. In all other cases, school buildings shall be inspected by the state fire marshal or the fire marshal's authorized assistants.
- (c) The state fire marshal shall order the governing body having control of any school building or facility thereof to correct any condition in such building or facility which is in violation of this act, or any condition which the fire marshal deems dangerous, or which in any way prevents a speedy exit from such building. After any such order is rendered, such governing body shall make the changes required to comply therewith. A board of education of any school district is hereby authorized to make expenditures from its general fund or capital outlay fund to comply with such order, or the board may issue no-fund warrants in such amounts as are necessary to pay expenses incurred in complying with such order. Such no-fund warrants shall be issued, registered, paid and redeemed and bear interest as provided by K.S.A. 79-2940, and amendments thereto, except that the approval of the state court of tax appeals shall not be required. Such warrants shall recite that they are issued by the board of education of the school district under authority of this act. Any board of education issuing warrants hereunder shall make a tax levy at the same time as other tax levies are made, after such warrants are issued, sufficient to pay such warrants and the interest thereon.
- (d) Whenever a board of education receives an order from the state fire marshal pursuant to subsection (c), the board, in lieu of repairing or remodeling the school building or facility as ordered by the state fire marshal, may close such building or facility as an attendance center. Whenever any board of education finds that any such order of the state fire marshal involves a cost in excess of that which the board of

education finds the school district can afford, or that the changes ordered are unwarranted or unnecessary, the board may petition for review of such order in the district court of the home county of such school district. Upon receiving such petition, the district court shall appoint three disinterested commissioners, one of whom shall be a licensed architect. The commissioners shall inspect the building or facility affected by the order and report to the court its findings of fact as to the necessity for the improvements or changes ordered by the state fire marshal, together with the estimated cost of each such improvement or change and such other recommendations as the commissioners deem advisable. Upon receiving such findings of fact and recommendations, or any other evidence relating to the petition for review, the court shall enter its order affirming, reversing or modifying the order of the state fire marshal. Such order of the court may be reviewed by the appellate courts in the same manner as other orders and judgments of the district court may be reviewed.

(e) Except as provided in subsection (d), any action of the state fire marshal pursuant to this section is subject to review in accordance with the act for judicial review and civil enforcement of agency actions. (K.S.A. 31-144)

**Fire safety and prevention; school buildings; construction, reconstruction or renovation requirements; accessibility to persons with a disability; building plans, certification; exceptions; rules and regulations.**

(a) Except as otherwise provided in this section, the construction, reconstruction or renovation of school buildings shall comply with the requirements of the 2000 edition of the international building code as published by the international codes council. All electric wiring shall conform to requirements of the 1999 issue of the national electric code of the national fire protection association.

(b) The construction, reconstruction or renovation of mobile, modular, portable or relocatable school buildings shall conform to the requirements of the 2000 edition of the life safety code as published by the national fire protection association.

(c) The construction, reconstruction or renovation of all school buildings shall conform to the provisions for making buildings and facilities accessible to, and usable by, persons with a disability, as required by K.S.A. 58-1301 through 58-1311, and amendments thereto.

(d) No contract shall be let for the construction, reconstruction or renovation of any school building, and it shall be illegal to pay out any public funds for the construction, reconstruction or renovation of a school building until the plans for such building bear the seal of an architect or a professional engineer licensed by the state board of technical professions of the state of Kansas certifying that the plans meet the applicable requirements of this act.

(e) The provisions of subsections (c) and (d) of this section shall not apply to any building or structure operated or used for any purpose by, or located upon the land of any community college, technical college, municipal university, institution under the governance of the state board of regents or other institutions of postsecondary education. Prior to construction,

reconstruction or renovation of a building or structure, all community colleges, technical colleges, any municipal university, institutions under the governance of the state board of regents or other institutions of postsecondary education, shall submit to the state fire marshal a code footprint for evaluation and approval of the fire/life safety features of such building or structure.

(f) The relocation of school buildings to which the provisions of subsection (b) apply shall not be construed to be construction or reconstruction under the provisions, or for the purposes, of this section.

(g) The state fire marshal shall adopt rules and regulations specifying those subsequent editions of the codes enumerated in subsections (a) and (b) which the state fire marshal has determined provide protection equivalent to those editions specified herein. Compliance with any subsequent edition specified by such rules and regulations shall be considered compliance with the edition of the code specified by this section. (K.S.A. 31-150)

#### **Public works bond.**

(a) Bond by contractor. Except as provided in this section, whenever any public official, under the laws of the state, enters into contract in any sum exceeding \$100,000 with any person or persons for the purpose of making any public improvements, or constructing any public building or making repairs on the same, such officer shall take, from the party contracted with, a bond to the state of Kansas with good and sufficient sureties in a sum not less than the sum total in the contract, conditioned that such contractor or the subcontractor of such contractor shall pay all indebtedness incurred for labor furnished, materials, equipment or supplies, used or consumed in connection with or in or about the construction of such public building or in making such public improvements. A contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer. A public official entering into a contract which requires a contractor or subcontractor to obtain a payment bond or any other bond shall not require that such bond be obtained from a specific surety, agent, broker or producer.

(b) Filing and limitations. The bond required under subsection (a) shall be filed with the clerk of the district court of the county in which such public improvement is to be made. When such bond is filed, no lien shall attach under this article. Any liens which have been filed prior to the filing of such bond shall be discharged. Any person to whom there is due any sum for labor or material furnished, as stated in subsection (a), or such person's assigns, may bring an action on such bond for the recovery of such indebtedness but no action shall be brought on such bond after six months from the completion of such public improvements or public buildings.

(c) In any case of a contract for construction, repairs or improvements for the state or a state agency under K.S.A. 75-3739 or 75-3741, and amendments thereto, a certificate of deposit payable to the state may be accepted in accordance with and subject to K.S.A. 60-1112, and amendments thereto. When such certificate of deposit is so accepted, no lien shall attach under this article. Any liens which have been filed prior to the acceptance of such certificate of deposit shall be discharged. Any person to whom there is due any sum for labor furnished,

materials, equipment or supplies used or consumed in connection with or for such contract for construction, repairs or improvements, shall make a claim therefor with the director of purchases under K.S.A. 60-1112, and amendments thereto. (K.S.A. 60-1111)

# Construction Management At-Risk Projects

If a unified school district decides to use a construction manager, procedures for hiring are outlined in K.S.A 72-1153; 72-1154; 72-1155.

## K.S.A 72-1153

**Same; definitions.** As used in the Kansas unified school district alternative project delivery construction procurement act, unless the context expressly provides otherwise:

(a) "Act" means the Kansas unified school district alternative project delivery building construction procurement act.

(b) "Board" means board of education of every unified school district in Kansas, as defined in K.S.A. [72-1131](#), and amendments thereto, with the authority to award public contracts for building design and construction.

(c) "Alternative project delivery" means an integrated comprehensive building design and construction process, including all procedures, actions, sequences of events, contractual relations, obligations, interrelations and various forms of agreement all aimed at the successful completion of the design and construction of buildings and other structures whereby a construction manager or general contractor is selected based on a qualifications and best value approach.

(d) "Ancillary technical services" include, but shall not be limited to, geology services and other soil or subsurface investigation and testing services, surveying, adjusting and balancing air conditioning, ventilating, heating and other mechanical building systems and testing and consultant services that are determined by the board to be required for the project.

(e) "Architectural services" means those services described as the "practice of architecture," as defined in K.S.A. [74-7003](#), and amendments thereto.

(f) "Best value selection" means a selection based upon project cost, qualifications and other factors.

(g) "Building construction" means furnishing labor, equipment, material or supplies used or consumed for the design, construction, alteration, renovation, repair or maintenance of a building or structure. Building construction does not include highways, roads, bridges, dams, turnpikes or related structures or stand-alone parking lots.

(h) "Construction services" means the process of planning, acquiring, building, equipping, altering, repairing, improving or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, excluding stand-alone parking lots.

(i) "Construction management at-risk services" means the services provided by a firm which has entered into a contract with the board to be the construction manager or general contractor for the value and schedule of the contract for a project, which is to hold the trade contracts and execute the work for a project in a manner similar to a general contractor, and which is required to solicit competitive bids for the trade packages developed for the project and to enter into the trade contracts for a project with the lowest responsible bidder therefor. Construction management at-risk services may include, but are not limited to, scheduling, value analysis, system analysis, constructability reviews, progress document reviews, subcontractor involvement and prequalification, subcontractor bonding policy, budgeting and price guarantees and construction coordination.

(j) "Construction management at-risk contract" means the contract whereby the board acquires from a construction manager or general contractor a series of preconstruction services and an at-risk financial obligation to carry out construction under a specified cost agreement.

(k) "Construction manager or general contractor" means any individual, partnership, joint venture, corporation, or other legal entity who is a member of the integrated project team with the board, design professional and other consultants that may be required for the project, who utilizes skill and knowledge of general contracting to perform preconstruction services and competitively procures and contracts with specialty contractors assuming the responsibility and the risk for construction delivery within a specified cost and schedule terms including a guaranteed maximum price.

(l) "Cost plus guaranteed maximum price contract" means a cost-plus-a-fee contract with a guaranteed maximum price. This includes the sum of the construction manager's fee, the construction manager's contingency, the construction manager's general conditions, all the subcontracts, plus an estimate for unbid subcontracts. The construction manager agrees to pay for costs that exceed the guaranteed maximum price and are not a result of changes in the contract documents.

(m) "Engineering services" means those services described as the "practice of engineering," as defined in K.S.A. [74-7003](#), and amendments thereto.

(n) "Firm" means any individual, partnership, joint venture, corporation or other legal entity which is engaged in the business of providing construction management or general construction contracting services.

(o) "Guaranteed maximum price" means the cost of the work as defined in the contract.

(p) "Selection recommendation committee" means school board or a committee appointed by the school board.

(q) "Parking lot" means a designated area constructed on the ground surface for parking motor vehicles. A parking lot included as part of a building construction project shall be subject to the provisions of this act. A parking lot designed and constructed as a stand-alone project shall not be subject to the provisions of this act.

(r) "Preconstruction services" means a series of services that can include, but are not necessarily limited to: Design review, scheduling, cost control, value engineering, constructability evaluation and preparation and coordination of bid packages.

(s) "Project services" means architectural, engineering services, land surveying, construction management at-risk services, ancillary technical services or other construction-related services determined by the board to be required by the project.

(t) "Public construction project" means the process of designing, constructing, reconstructing, altering or renovating a unified school district building or other structure. Public construction project does not include the process of designing, constructing, altering or repairing a public highway, road, bridge, dam, turnpike or related structure.



## K.S.A 72-1154

**Criteria for use; alternative project delivery.** (a) Notwithstanding any other provision of the law to the contrary, the board is hereby authorized to institute an alternative project delivery program whereby construction management at-risk procurement processes may be utilized on public projects pursuant to this act. This authorization for construction management at-risk procurement shall be for the sole and exclusive use of planning, acquiring, designing, building, equipping, altering, repairing, improving or demolishing any structure or appurtenance thereto, including facilities, utilities or other improvements to any real property, but shall not include stand-alone parking lots.

(b) The board may only approve those projects for which the use of the alternative project delivery procurement process is appropriate. In making such determination, the board shall consider the following factors:

(1) The likelihood that the alternative project delivery method of procurement selected will serve the public interest by providing substantial savings of time or money over the traditional design-bid-build delivery process.

(2) The ability to overlap design and construction phases is required to meet the needs of the end user.

(3) The use of an accelerated schedule is required to make repairs resulting from an emergency situation.

(4) The project presents significant phasing or technical complexities, or both, requiring the use of an integrated team of designers and constructors to solve project challenges during the design or preconstruction phase.

(5) The use of an alternative project delivery method will not encourage favoritism in awarding the public contract or substantially diminish competition for the public contract.

(c) When a board intends to utilize an alternative project delivery method, the board shall allow public comment on this intention at a school board meeting. Notice of this intention shall be clearly stated on the board agenda and in the official newspaper of the school district. Public comment on this intention at a board meeting shall occur before the selection process set forth in this statute may commence.

(d) Notwithstanding the provisions of K.S.A. [72-1151](#), and amendments thereto, if the board deems that the project does not qualify for the alternative project delivery method included under this act, then the construction services for such project shall be obtained pursuant to competitive bids and all contracts for construction services shall be awarded to the lowest responsible bidder consistent with the provisions of K.S.A. [72-1151](#), and amendments thereto.

## K.S.A 72-1155

**Procedures; construction management at-risk projects.** Construction management at-risk project delivery procedures shall be conducted as follows:

(a) The board shall determine the scope and level of detail required to permit a qualified firm to submit construction management at-risk proposals in accordance with the request for proposals given the nature of the project.

(b) Prior to completion of the construction documents, or as early as during the initiation of the project, the construction manager or general contractor shall be selected. The project design professional may be employed or retained by the board to assist in the selection process.

(c) The board shall publish a notice of the request for qualifications and proposals for the required project services at least 15 days prior to the commencement of such requests in the official newspaper of the school district and with a statewide school board or construction industry association website in accordance with K.S.A. [64-101](#), and amendments thereto, to the associated general contractors of Kansas and in such other appropriate manner as may be determined by the board.

(d) The board shall solicit proposals in a three stage qualifications based selection process. Phase I shall be the solicitation of qualifications and prequalifying a minimum of three but no more than five firms to advance to phase II. Phase II shall be the solicitation of a request for proposal for the project, and phase III shall include an interview with each proposer to present their qualifications and answer questions.

(1) Phase I shall require all firms to submit a statement of qualifications which shall include, but not be limited to:

(A) Similar project experience;

(B) experience in this type of project delivery system;

(C) references from design professionals and owners from previous projects;

(D) description of the construction manager or general contractor's project management approach; and

(E) bonding capacity. Firms submitting a statement of qualifications shall be capable of providing a public works bond in accordance with K.S.A. [60-1111](#), and amendments thereto, and shall present evidence of such bonding capacity to the board with their statement of qualifications. If a firm fails to present such evidence, such firm shall be deemed unqualified for selection under this subsection.

(2) The board shall evaluate the qualifications of all firms in accordance with the instructions of the request for qualifications. The board shall prepare a short list containing a minimum of three and maximum of five qualified firms, which have the best and most relevant qualifications to perform the services required of the project, to participate in phase II of the selection process. If the board receives qualifications from less than four firms, all firms shall be invited to participate in phase II of the selection process. The board shall have discretion to disqualify any firm that, in the board's opinion, lacks the minimal qualifications required to perform the work

(3) Phase II of the process shall be conducted as follows:

(A) Prequalified firms selected in phase I shall be given a request for proposal. The request for proposal shall require all firms to submit a more in depth response including, but not be limited to:

- (i) Company overview;
- (ii) experience or references, or both, relative to the project under question;
- (iii) resumes of proposed project personnel;
- (iv) overview of preconstruction services;
- (v) overview of construction planning; and
- (vi) proposed safety plan.

(B) All prequalified firms shall submit proposed fees in a format required by the department of administration, including fees for preconstruction services, fees for general conditions, fees for overhead and profits directly and only to the secretary of administration. The secretary of administration shall score and rank the proposals for the best value and report such findings to the selection recommendation committee after all other interviews and scoring have been completed. The recommendations of the secretary of administration to the selection recommendation committee shall be open for public review. The scores on fees and profits shall not account for more than 25% of the total possible score.

(4) Phase III shall be conducted as follows:

(A) Once all proposals have been submitted, the selection recommendation committee shall interview each of the firms in executive session, allowing the competing firms to present their proposed team members, qualifications, project plan and to answer questions. All other discussion and any action taken in the selection process shall be held in an open meeting. Interview scores shall not account for more than 50% of the total possible score.

(B) The selection recommendation committee shall select the firm providing the best value based on the proposal criteria, weighting factors utilized to emphasize important elements of each project for approval by the board and recommendation of the secretary of administration. All scoring criteria and weighting factors shall be identified by the board in the request for proposal instructions to firms. The selection recommendation committee shall proceed to negotiate with and attempt to enter into a construction management at-risk contract with the firm receiving the best total score to serve as the construction manager or general contractor for the project. Should the selection recommendation committee be unable to negotiate a satisfactory contract with the firm scoring the best total score, negotiations with that firm shall be terminated, and the committee shall undertake negotiations with the firm with the next best total score, in accordance with this act.

(C) If the selection recommendation committee determines, that it is not in the best interest of the board to proceed with the project pursuant to the proposals offered, the selection recommendation committee shall reject all proposals. If all proposals are rejected, the board may solicit new proposals using different design criteria, budget constraints or qualifications.

(D) The construction management at-risk contract for a project shall be prepared by the board and entered into between the board and the firm performing such construction management at-risk services. A construction management at-risk contract utilizing a cost plus guaranteed maximum price contract value shall return all savings under the guaranteed maximum price to the school district.

(E) The board or the construction manager at-risk, at the board's discretion shall publish a construction services bid notice in the official newspaper of the school district and website of a statewide school board association or construction industry association and in such other appropriate manner for the construction manager or general contractor as may be determined by the board. Each construction services bid notice shall include the request for bids and other bidding information prepared by the construction manager or general contractor and the board. The board may allow the construction manager or general contractor to self-perform construction services provided the construction manager or general contractor submits a sealed bid proposal under the same conditions as all other competing firms. At the time for opening the bids, the construction manager or general contractor shall evaluate the bids and shall determine the lowest responsible bidder except in the case of self-performed work for which the board shall determine the lowest responsible bidder. The construction manager or general contractor shall enter into a contract with each firm performing the construction services for the project and make a public announcement of each firm selected at the first school board meeting following the selection.

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