

1 AN ACT relating to public school innovation.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) The Kentucky Board of Education, upon the request of the local board of
6 education of a school district, may grant a waiver from the requirements of an
7 administrative regulation promulgated by the state board or from a statute over
8 which the state board has authority to enforce. A waiver granted by the state
9 board shall expire on June 30 of the third full school year after the request was
10 first approved, regardless of subsequent amendment, unless the state board
11 renews the waiver prior to expiration. The state board shall not waive any statute
12 or administrative regulation;

13 (a) Relating to health and safety, including required criminal background
14 checks for staff and volunteers specified in KRS 160.380 and 161.148;

15 (b) Relating to civil rights;

16 (c) Required by federal law;

17 (d) Relating to compulsory attendance requirements under KRS 158.030 and
18 158.100 or the recording of data necessary for participation in the fund to
19 support education excellence in Kentucky;

20 (e) Establishing certification requirements for teachers in core academic areas,
21 except a waiver may authorize up to twenty-five percent (25%) of the
22 teaching staff of school may be employed without teacher certification if the
23 individual possesses a baccalaureate or graduate degree in the subject the
24 individual is hired to teach;

25 (f) Requiring students' participation in state assessment of student
26 performance, as required under KRS 158.6453;

27 (g) Financial audits, audit procedures, and audit requirements under KRS

1 156.265;

2 (h) Open records and open meeting requirements under KRS Chapter 61;

3 (i) Purchasing requirements and limitations under KRS Chapter 45A and KRS

4 156.074 and 156.480; or

5 (j) Requiring instructional time that is at least equivalent to the student
6 instructional year specified in KRS 158.070.

7 (2) A waiver request under subsection (1) of this section shall:

8 (a) Identify the specific statutes and administrative regulations for which the
9 local board is seeking a waiver;

10 (b) Specify the schools or programs within the district to which the waiver shall
11 apply;

12 (c) Explain how the waiver for the schools or programs of each specific statute
13 or administrative regulation will improve operations or student academic
14 achievement; and

15 (d) Include any evidence the district wishes to submit to support the request.

16 (3) Upon the majority vote of a local board approving a waiver request, the
17 superintendent of the district shall submit the waiver request to the state board.
18 The state board shall consider the waiver of each statute or administrative
19 regulation included in the request at the next regularly scheduled meeting after
20 submission and shall either approve or deny the request. In considering approval
21 for each statute or administrative regulation identified in a waiver request, the
22 state board shall grant the request if it demonstrates that the waiver is more likely
23 than not:

24 (a) To improve that school's or program's operation without hindering student
25 academic achievement; or

26 (b) To improve student academic achievement at that school or program.

27 (4) In submitting a waiver request under subsection (3) of this section, a local board

- 1 may seek to identify the school or program that is the subject of the request as a
2 school of innovation. In addition to any other waivers granted for the school or
3 program, a school of innovation shall be granted a waiver from all statutes and
4 administrative regulations that would prevent the district from entering into an
5 agreement with an education service provider to assist in the management and
6 operation of the school or program. The state board shall approve the school of
7 innovation request if the request demonstrates that identification as a school of
8 innovation is more likely than not to improve either that school's or program's
9 operation or student academic achievement.
- 10 (5) A local board whose request to waive a statute or administrative regulation under
11 subsection (3) or (4) of this section was denied may amend the original request
12 for reconsideration at the state board's next regularly scheduled meeting. A local
13 board may request assistance from the Kentucky Department of Education in the
14 development of the local board's waiver request or an amendment.
- 15 (6) A local board may seek to amend a previously approved waiver request by
16 submitting the amendment for approval by the state board under the same
17 procedures as the original request.
- 18 (7) A local board that is granted a waiver under subsection (3) or (4) of this section
19 may submit a request to renew the waiver to the state board. A renewal request
20 shall be submitted no earlier than six (6) months prior to that waiver's expiration.
21 The renewal request shall include evidence of the operational improvement of the
22 school or program that is subject to the waiver, the academic achievement of the
23 students enrolled in the schools or program, comparisons of those students with
24 similar students across the state, and any other evidence of the waiver's benefit to
25 student academic achievement. If the state board finds that the waiver has had a
26 positive impact on the school's or program's operation or the academic
27 achievement of students, then the renewal request shall be approved. An

1 approved renewal request shall extend the waiver for an additional three (3)
2 school years.

3 (8) Any school that is subject to a waiver shall admit any and all children eligible to
4 attend the school subject to the local board's policies.

5 (9) If the state board at any time finds by a two-thirds (2/3) majority vote that a
6 specific waiver previously granted has hindered school or program operations,
7 endangered students, impeded student academic achievement, or supported
8 financial malfeasance or criminal activity, then the waiver shall be rescinded.
9 The existence of a waiver shall not negate the legal duties or professional
10 responsibilities of a district employee.

11 (10) The state board shall promulgate administrative regulations in accordance with
12 KRS Chapter 13A to adopt a standardized waiver request form and establish any
13 procedures for processing waiver requests in compliance with this section.

14 ➔Section 2. KRS 156.160 is amended to read as follows:

15 (1) With the advice of the Local Superintendents Advisory Council, the Kentucky
16 Board of Education shall promulgate administrative regulations establishing
17 standards which school districts shall meet in student, program, service, and
18 operational performance. These regulations shall comply with the expected
19 outcomes for students and schools set forth in KRS 158.6451. Administrative
20 regulations shall be promulgated for the following:

21 (a) Courses of study for the different grades and kinds of common schools
22 identifying the common curriculum content directly tied to the goals,
23 outcomes, and assessment strategies developed under KRS 158.645,
24 158.6451, and 158.6453 and distributed to local school districts and schools.
25 The administrative regulations shall provide that:

26 1. If a school offers American sign language, the course shall be accepted
27 as meeting the foreign language requirements in common schools

- 1 notwithstanding other provisions of law;
- 2 2. If a school offers the Reserve Officers Training Corps program, the
- 3 course shall be accepted as meeting the physical education requirement
- 4 for high school graduation notwithstanding other provisions of law;
- 5 3. Every public middle and high school's curriculum shall include
- 6 instruction on the Holocaust and other cases of genocide, as defined by
- 7 the United Nations Convention on the Prevention and Punishment of the
- 8 Crime of Genocide, that a court of competent jurisdiction, whether a
- 9 court in the United States or the International Court of Justice, has
- 10 determined to have been committed by applying rigorous standards of
- 11 due process; and
- 12 4. Beginning in the 2025-2026 school year, cursive writing shall be
- 13 included as a course of study in all elementary schools and shall be
- 14 designed to ensure proficiency in cursive writing by the end of grade
- 15 five (5);
- 16 (b) Courses of study or educational experiences available to students in all middle
- 17 and high schools to fulfill the prerequisites for courses in advanced science
- 18 and mathematics as defined in KRS 158.845;
- 19 (c) The acquisition and use of educational equipment for the schools as
- 20 recommended by the Council for Education Technology;
- 21 (d) The minimum requirements for high school graduation in light of the
- 22 expected outcomes for students and schools set forth in KRS 158.6451. The
- 23 minimum requirements shall not include achieving any postsecondary
- 24 readiness indicator as described in KRS 158.6455 or any minimum score on a
- 25 statewide assessment administered under KRS 158.6453. Student scores from
- 26 any assessment administered under KRS 158.6453 that are determined by the
- 27 department's technical advisory committee to be valid and reliable at the

- 1 individual level shall be included on the student transcript. The department's
2 technical advisory committee shall submit its determination to the
3 commissioner of education and the Legislative Research Commission;
- 4 (e) The requirements for an alternative high school diploma for students with
5 disabilities whose individualized education program indicates that, in
6 accordance with 20 U.S.C. sec. 1414(d)(1)(A):
- 7 1. The student cannot participate in the regular statewide assessment; and
 - 8 2. An appropriate alternate assessment has been selected for the student
9 based upon a modified curriculum and an individualized course of
10 study;
- 11 (f) Taking and keeping a school census, and the forms, blanks, and software to be
12 used in taking and keeping the census and in compiling the required reports.
13 The board shall create a statewide student identification numbering system
14 based on students' Social Security numbers. The system shall provide a
15 student identification number similar to, but distinct from, the Social Security
16 number, for each student who does not have a Social Security number or
17 whose parents or guardians choose not to disclose the Social Security number
18 for the student;
- 19 (g) Sanitary and protective construction of public school buildings, toilets,
20 physical equipment of school grounds, school buildings, and classrooms. With
21 respect to physical standards of sanitary and protective construction for school
22 buildings, the Kentucky Board of Education shall adopt the Uniform State
23 Building Code;
- 24 (h) Medical inspection, physical and health education and recreation, and other
25 regulations necessary or advisable for the protection of the physical welfare
26 and safety of the public school children. The administrative regulations shall
27 set requirements for student health standards to be met by all students in

1 grades four (4), eight (8), and twelve (12) pursuant to the outcomes described
2 in KRS 158.6451. The administrative regulations shall permit a student who
3 received a physical examination no more than six (6) months prior to his or
4 her initial admission to Head Start to substitute that physical examination for
5 the physical examination required by the Kentucky Board of Education of all
6 students upon initial admission to the public schools, if the physical
7 examination given in the Head Start program meets all the requirements of the
8 physical examinations prescribed by the Kentucky Board of Education;

9 (i) A vision examination by an optometrist or ophthalmologist that shall be
10 required by the Kentucky Board of Education. The administrative regulations
11 shall require evidence that a vision examination that meets the criteria
12 prescribed by the Kentucky Board of Education has been performed. This
13 evidence shall be submitted to the school no later than January 1 of the first
14 year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a
15 public school, public preschool, or Head Start program;

16 (j) 1. Beginning with the 2010-2011 school year, a dental screening or
17 examination by a dentist, dental hygienist, physician, registered nurse,
18 advanced practice registered nurse, or physician assistant that shall be
19 required by the Kentucky Board of Education. The administrative
20 regulations shall require evidence that a dental screening or examination
21 that meets the criteria prescribed by the Kentucky Board of Education
22 has been performed. This evidence shall be submitted to the school no
23 later than January 1 of the first year that a five (5) or six (6) year-old
24 child is enrolled in a public school.

25 2. A child shall be referred to a licensed dentist if a dental screening or
26 examination performed by anyone other than a licensed dentist identifies
27 the possibility of dental disease;

- 1 (k) The transportation of children to and from school;
- 2 (l) The fixing of holidays on which schools may be closed and special days to be
3 observed, and the pay of teachers during absence because of sickness or
4 quarantine or when the schools are closed because of quarantine;
- 5 (m) The preparation of budgets and salary schedules for the several school
6 districts under the management and control of the Kentucky Board of
7 Education;
- 8 (n) A uniform series of forms and blanks, educational and financial, including
9 forms of contracts, for use in the several school districts;
- 10 (o) The disposal of real and personal property owned by local boards of
11 education; and
- 12 (p) The development and implementation of procedures, for all students who are
13 homeless children and youths as defined in 42 U.S.C. sec. 11434a(2), to do
14 the following:
- 15 1. Awarding and accepting of credit, including partial credit, for all
16 coursework satisfactorily completed by a student while enrolled at
17 another school;
- 18 2. Allowing a student who was previously enrolled in a course required for
19 graduation the opportunity, to the extent practicable, to complete the
20 course, at no cost to the student, before the beginning of the next school
21 year;
- 22 3. Awarding a diploma, at the student's request, by a district from which
23 the student transferred, if the student transfers schools at any time after
24 the completion of the student's second year of high school and the
25 student is ineligible to graduate from the district to which the student
26 transfers, but meets the graduation requirements of the district from
27 which the student transferred; and

1 4. Exempting the student from all coursework and other requirements
2 imposed by the local board of education that are in addition to the
3 minimum requirements for high school graduation established by the
4 Kentucky Board of Education pursuant to paragraph (d) of this
5 subsection in the district to which the student transfers, if the student
6 transfers schools at any time after the completion of the student's second
7 year of high school and the student is ineligible to graduate both from
8 the district to which the student transfers and the district from which the
9 student transferred.

10 (2) ~~{(a) At the request of a local board of education or a school council, a local school~~
11 ~~district superintendent shall request that the Kentucky Board of Education~~
12 ~~waive any administrative regulation promulgated by that board. Beginning in~~
13 ~~the 1996-97 school year, a request for waiver of any administrative regulation~~
14 ~~shall be submitted to the Kentucky Board of Education in writing with~~
15 ~~appropriate justification for the waiver. The Kentucky Board of Education~~
16 ~~may approve the request when the school district or school has demonstrated~~
17 ~~circumstances that may include but are not limited to the following:~~

18 ~~1. An alternative approach will achieve the same result required by the~~
19 ~~administrative regulation;~~
20 ~~2. Implementation of the administrative regulation will cause a hardship on~~
21 ~~the school district or school or jeopardize the continuation or~~
22 ~~development of programs; or~~
23 ~~3. There is a finding of good cause for the waiver.~~

24 (b) ~~The following shall not be subject to waiver:~~

25 ~~1. Administrative regulations relating to health and safety;~~
26 ~~2. Administrative regulations relating to civil rights;~~
27 ~~3. Administrative regulations required by federal law; and~~

1 4. ~~Administrative regulations promulgated in accordance with KRS~~
2 ~~158.6451, 158.6453, 158.6455, and this section, relating to measurement~~
3 ~~of performance outcomes and determination of successful districts or~~
4 ~~schools, except upon issues relating to the grade configuration of~~
5 ~~schools.~~

6 ~~(e) Any waiver granted under this subsection shall be subject to revocation upon~~
7 ~~a determination by the Kentucky Board of Education that the school district or~~
8 ~~school holding the waiver has subsequently failed to meet the intent of the~~
9 ~~waiver.~~

10 ~~(3)~~ Any private, parochial, or church school may voluntarily comply with curriculum,
11 certification, and textbook standards established by the Kentucky Board of
12 Education and be certified upon application to the board by such schools.

13 (3)~~(4)~~ Any public school that violates the provisions of KRS 158.854 shall be
14 subject to a penalty to be assessed by the commissioner of education as follows:

15 (a) The first violation shall result in a fine of no less than one (1) week's revenue
16 from the sale of the competitive food;

17 (b) Subsequent violations shall result in a fine of no less than one (1) month's
18 revenue from the sale of the competitive food;

19 (c) "Habitual violations," which means five (5) or more violations within a six (6)
20 month period, shall result in a six (6) month ban on competitive food sales for
21 the violating school; and

22 (d) Revenue collected as a result of the fines in this subsection shall be
23 transferred to the food service fund of the local school district.

24 ➔Section 3. KRS 156.445 is amended to read as follows:

25 (1) No textbook or program shall be used in any public school in Kentucky as a basal
26 title unless it has been recommended and listed on the state multiple list by the State
27 Textbook Commission or unless a school and district has met the notification

1 requirements under subsection (2) of this section. Any changes of textbooks made
2 by the State Textbook Commission shall not become effective until grades and
3 classes of the respective county and independent school districts have completed
4 work for which the adopted book then in use was originally intended. Nothing in
5 this section shall apply to the supplementary books that are needed from time to
6 time.

7 (2) A school council, or if none exists, the principal, may notify, through the
8 superintendent, the State Textbook Commission that it plans to adopt a basal
9 textbook or program that is not on the recommended list by submitting evidence
10 that the title it has chosen meets the selection criteria of the State Textbook
11 Commission in KRS 156.405(3)(b) and the subject specific criteria of the textbook
12 reviewers pursuant to KRS 156.407(5) and complies with the required publisher
13 specifications.

14 (3) In approving text materials for private and parochial schools for the purpose of
15 KRS 156.160~~(2)~~~~(3)~~ the text materials shall be approved if they are comprehensive
16 and appropriate to the grade level in question notwithstanding the fact that they may
17 contain elements of religious philosophy.

18 ➔Section 4. KRS 157.360 is amended to read as follows:

19 (1) (a) In determining the cost of the program to support education excellence in
20 Kentucky, the statewide guaranteed base funding level, as defined in KRS
21 157.320, shall be computed by dividing the amount appropriated for this
22 purpose by the prior year's statewide average daily attendance.

23 (b) When determining the biennial appropriations for the program, the average
24 daily attendance for each fiscal year shall include an estimate of the number
25 of students graduating early under the provisions of KRS 158.142.

26 (2) Each district shall receive an amount equal to the base funding level for each pupil
27 in average daily attendance in the district in the previous year, except a district shall

1 receive an amount equal to one-half (1/2) of the state portion of the average
2 statewide per pupil guaranteed base funding level for each student who graduated
3 early under the provisions of KRS 158.142. Each district's base funding level shall
4 be adjusted by the following factors:

5 (a) The number of at-risk students in the district. At-risk students shall be
6 identified as those approved for the free lunch program under state and federal
7 guidelines. The number of at-risk students shall be multiplied by a factor to be
8 established by the General Assembly. Funds generated under this paragraph
9 may be used to pay for:

- 10 1. Alternative programs for students who are at risk of dropping out of
11 school before achieving a diploma; and
- 12 2. A hazardous duty pay supplement as determined by the local board of
13 education to the teachers who work in alternative programs with
14 students who are violent or assaultive;

15 (b) The number and types of exceptional children in the district as defined by
16 KRS 157.200. Specific weights for each category of exceptionality shall be
17 used in the calculation of the add-on factor for exceptional children; and

18 (c) Transportation costs. The per-pupil cost of transportation shall be calculated
19 as provided by KRS 157.370. Districts which contract to furnish
20 transportation to students attending nonpublic schools may adopt any payment
21 formula which ensures that no public school funds are used for the
22 transportation of nonpublic students.

23 (3) Beginning with the 2015-2016 school year and each year thereafter, the General
24 Assembly shall annually allocate funds equal to one-half (1/2) of the state portion
25 of the average statewide per pupil guaranteed base funding level for each student
26 who graduated early under the provisions of KRS 158.142 the previous school year
27 to the Kentucky Higher Education Assistance Authority for deposit in the early

1 graduation scholarship trust fund.

2 (4) The program to support education excellence in Kentucky shall be fully
3 implemented by the 1994-95 school year.

4 (5) (a) Except for those schools which have implemented school-based decision
5 making, the commissioner of education shall enforce maximum class sizes for
6 every academic course requirement in all grades except in vocal and
7 instrumental music, and physical education classes. Except as provided in
8 subsection (6) of this section, the maximum number of pupils enrolled in a
9 class shall be as follows:

- 10 1. Twenty-four (24) in primary grades (kindergarten through third grade);
- 11 2. Twenty-eight (28) in grade four (4);
- 12 3. Twenty-nine (29) in grades five (5) and six (6);
- 13 4. Thirty-one (31) in grades seven (7) to twelve (12).

14 (b) Except for those schools which have implemented school-based decision
15 making, class size loads for middle and secondary school classroom teachers
16 shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

17 (c) The commissioner of education, upon approval of the Kentucky Board of
18 Education, shall adopt administrative regulations for enforcing this provision.
19 These administrative regulations shall include procedures for a superintendent
20 to request an exemption from the Kentucky Board of Education when unusual
21 circumstances warrant an increased class size for an individual class. A
22 request for an exemption shall include specific reasons for the increased class
23 size with a plan for reducing the class size prior to the beginning of the next
24 school year. A district shall not receive in any one (1) year exemptions for
25 more classes than enroll twenty percent (20%) of the pupils in the primary
26 grades and grades four (4) through eight (8).

27 (d) In all schools the commissioner of education shall enforce the special

1 education maximum class sizes set by administrative regulations adopted by
2 the Kentucky Board of Education. A superintendent may request an
3 exemption pursuant to paragraph (c) of this subsection. A local school council
4 may request a waiver relating to maximum class size pursuant to Section 1 of
5 this Act in the same manner as a local board of education~~[KRS 156.160(2)]~~.

6 An exemption or waiver shall not be granted if the increased class size will
7 impede any exceptional child from achieving his or her individual education
8 program in the least restrictive environment.

9 (6) In grades four (4) through six (6) with combined grades, the maximum class size
10 shall be the average daily attendance upon which funding is appropriated for the
11 lowest assigned grade in the class. There shall be no exceptions to the maximum
12 class size for combined classes. In combined classes other than the primary grades,
13 no ungraded students shall be placed in a combined class with graded students. In
14 addition, there shall be no more than two (2) consecutive grade levels combined in
15 any one (1) class in grades four (4) through six (6). However, this shall not apply to
16 schools which have implemented school-based decision making.

17 (7) If a local school district, through its admission and release committee, determines
18 that an appropriate program in the least restrictive environment for a particular child
19 with a disability includes either part-time or full-time enrollment with a private
20 school or agency within the state or a public or private agency in another state, the
21 school district shall count as average daily attendance in a public school the time
22 that the child is in attendance at the school or agency, contingent upon approval by
23 the commissioner of education.

24 (8) Pupils attending a center for child learning and study established under an
25 agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating
26 average daily attendance, be considered as in attendance in the school district in
27 which the child legally resides and which is party to the agreement. For purposes of

1 subsection (1) of this section, teachers who are actually employees of the joint or
2 cooperative action shall be considered as employees of each school district which is
3 a party to the agreement.

4 (9) Program funding shall be increased when the average daily attendance in any
5 district for the first two (2) months of the current school year is greater than the
6 average daily attendance of the district for the first two (2) months of the previous
7 school year. The program funds allotted the district shall be increased by the
8 percent of increase. The average daily attendance in kindergarten is the
9 kindergarten full-time equivalent pupils in average daily attendance.

10 (10) If the average daily attendance for the current school year in any district decreases
11 by ten percent (10%) or more than the average daily attendance for the previous
12 school year, the average daily attendance for purposes of calculating program
13 funding for the next school year shall be increased by an amount equal to two-thirds
14 ($\frac{2}{3}$) of the decrease in average daily attendance. If the average daily attendance
15 remains the same or decreases in the succeeding school year, the average daily
16 attendance for purposes of calculating program funding for the following school
17 year shall be increased by an amount equal to one-third ($\frac{1}{3}$) of the decrease for the
18 first year of the decline.

19 (11) If the percentage of attendance of any school district shall have been reduced more
20 than two percent (2%) during the previous school year, the program funding
21 allotted the district for the current school year shall be increased by the difference in
22 the percentage of attendance for the two (2) years immediately prior to the current
23 school year less two percent (2%).

24 (12) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12)
25 months per year. Vocational agriculture teachers shall be responsible for the
26 following program of instruction during the time period beyond the regular
27 school term established by the local board of education: supervision and

1 instruction of students in agriculture experience programs; group and
2 individual instruction of farmers and agribusinessmen; supervision of student
3 members of agricultural organizations who are involved in leadership training
4 or other activity required by state or federal law; or any program of vocational
5 agriculture established by the Department of Education. During extended
6 employment, no vocational agriculture teacher shall receive salary on a day
7 that the teacher is scheduled to attend an institution of higher education class
8 which could be credited toward meeting any certification requirement.

9 (b) Each teacher of agriculture employed shall submit an annual plan for summer
10 program to the local school superintendent for approval. The summer plan
11 shall include a list of tasks to be performed, purposes for each task, and time
12 to be spent on each task. Approval by the local school superintendent shall be
13 in compliance with the guidelines developed by the Department of Education.
14 The supervision and accountability of teachers of vocational agriculture's
15 summer programs shall be the responsibility of the local school
16 superintendent. The local school superintendent shall submit to the
17 commissioner of education a completed report of summer tasks for each
18 vocational agriculture teacher. Twenty percent (20%) of the approved
19 vocational agriculture programs shall be audited annually by the State
20 Department of Education to determine that the summer plan has been properly
21 executed.

22 (13) (a) In allotting program funds for home and hospital instruction, statewide
23 guaranteed base funding, excluding the capital outlay, shall be allotted for
24 each child in average daily attendance in the prior school year who has been
25 properly identified according to Kentucky Board of Education administrative
26 regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall
27 be reported monthly on forms provided by the Department of Education; and

- 1 (b) Pursuant to administrative regulations of the Kentucky Board of Education,
2 local school districts shall be reimbursed for home and hospital instruction for
3 pupils unable to attend regular school sessions because of short-term health
4 impairments. A reimbursement formula shall be established by administrative
5 regulations to include such factors as a reasonable per hour, per child
6 allotment for teacher instructional time, with a maximum number of funded
7 hours per week, a reasonable allotment for teaching supplies and equipment,
8 and a reasonable allotment for travel expenses to and from instructional
9 assignments, but the formula shall not include an allotment for capital outlay.
10 Attendance shall be calculated pursuant to KRS 157.270 and shall be reported
11 annually on forms provided by the Department of Education.
- 12 (14) Except for those schools which have implemented school-based decision making
13 and the school council has voted to waive this subsection, kindergarten aides shall
14 be provided for each twenty-four (24) full-time equivalent kindergarten students
15 enrolled.
- 16 (15) Effective July 1, 2001, there shall be no deduction applied against the base funding
17 level for any pupil in average daily attendance who spends a portion of his or her
18 school day in a program at a state-operated career and technical education or
19 vocational facility.
- 20 (16) During a fiscal year, a school district may request that the Department of Education
21 recalculate its funds allocated under this section if the current year average daily
22 attendance for the twenty (20) day school month as defined in KRS 158.060(1) that
23 contains the most days within the calendar month of January exceeds the prior year
24 adjusted average daily attendance plus growth by at least one percent (1%). Any
25 adjustments in the allotments approved under this subsection shall be proportional
26 to the remaining days in the school year and subject to available funds under the
27 program to support education excellence in Kentucky.

(17) To calculate the state portion of the program to support education excellence in Kentucky for a school district, the Department of Education shall subtract the local effort required under KRS 157.390(5) from the calculated base funding under the program to support education excellence in Kentucky, as required by this section. The value of the real estate used in this calculation shall be the lesser of the current year assessment or the prior year assessment increased by four percent (4%) plus the value of current year new property. The calculation under this subsection shall be subject to available funds.

(18) Notwithstanding any other statute or budget of the Commonwealth language to the contrary, time missed due to shortening days for emergencies may be made up by lengthening school days in the school calendar without any loss of funds under the program to support education excellence in Kentucky.

➔Section 5. KRS 158.070 is amended to read as follows:

(1) As used in this section:

- (a) "Election" has the same meaning as in KRS 121.015;
- (b) "Minimum school term" or "school term" means not less than one hundred eighty-five (185) days composed of the student attendance days, teacher professional days, and holidays;
- (c) "School calendar" means the document adopted by a local board of education that establishes the minimum school term, student instructional year or variable student instructional year, and days that school will not be in session;
- (d) "School district calendar committee" means a committee that includes at least the following:
 - 1. One (1) school district principal;
 - 2. One (1) school district office administrator other than the superintendent;
 - 3. One (1) member of the local board of education;

- 1 4. Two (2) parents of students attending a school in the district;
- 2 5. One (1) school district elementary school teacher;
- 3 6. One (1) school district middle or high school teacher;
- 4 7. Two (2) school district classified employees; and
- 5 8. Two (2) community members from the local chamber of commerce,
- 6 business community, or tourism commission;
- 7 (e) "Student attendance day" means any day that students are scheduled to be at
- 8 school to receive instruction, and encompasses the designated start and
- 9 dismissal time;
- 10 (f) "Student instructional year" means at least one thousand sixty-two (1,062)
- 11 hours of instructional time for students delivered on not less than one hundred
- 12 seventy (170) student attendance days;
- 13 (g) "Teacher professional day" means any day teachers are required to report to
- 14 work as determined by a local board of education, with or without the
- 15 presence of students; and
- 16 (h) "Variable student instructional year" means at least one thousand sixty-two
- 17 (1,062) hours of instructional time delivered on the number of student
- 18 attendance days adopted by a local board of education which shall be
- 19 considered proportionally equivalent to one hundred seventy (170) student
- 20 attendance days and calendar days for the purposes of a student instructional
- 21 year, employment contracts that are based on the school term, service credit
- 22 under KRS 161.500, and funding under KRS 157.350.
- 23 (2) (a) The local board of education, upon recommendation of the local school
- 24 district superintendent, shall annually appoint a school district calendar
- 25 committee to review, develop, and recommend school calendar options.
- 26 (b) The school district calendar committee, after seeking feedback from school
- 27 district employees, parents, and community members, shall recommend

1 school calendar options to the local school district superintendent for
2 presentation to the local board of education. The committee's
3 recommendations shall comply with state laws and regulations and consider
4 the economic impact of the school calendar on the community and the state.

5 (c) Prior to adopting a school calendar, the local board of education shall hear for
6 discussion the school district calendar committee's recommendations and the
7 recommendation of the superintendent at a meeting of the local board of
8 education.

9 (d) During a subsequent meeting of the local board of education, the local board
10 shall adopt a school calendar for the upcoming school year that establishes the
11 opening and closing dates of the school term, beginning and ending dates of
12 each school month, student attendance days, and days on which schools shall
13 be dismissed. The local board may schedule days for breaks in the school
14 calendar that shall not be counted as a part of the minimum school term.

15 (e) For local board of education meetings described in paragraphs (c) and (d) of
16 this subsection, if the meeting is a regular meeting, notice shall be given to
17 media outlets that have requests on file to be notified of special meetings
18 stating the date of the regular meeting and that one (1) of the items to be
19 considered in the regular meeting will be the school calendar. The notice shall
20 be sent at least twenty-four (24) hours before the regular meeting. This
21 requirement shall not be deemed to make any requirements or limitations
22 relating to special meetings applicable to the regular meeting.

23 (f) A local school board of education that adopts a school calendar with the first
24 student attendance day in the school term starting no earlier than the Monday
25 closest to August 26 may use a variable student instructional year. Districts
26 may set the length of individual student attendance days in a variable student
27 instructional schedule, but no student attendance day shall contain more than

1 seven (7) hours of instructional time unless the district submitted and received
2 approval from the commissioner of education for an innovative alternative
3 calendar.

4 (3) (a) Each local board of education shall use four (4) days of the minimum school
5 term for professional development and collegial planning activities for the
6 professional staff without the presence of students pursuant to the
7 requirements of KRS 156.095. At the discretion of the superintendent, one (1)
8 day of professional development may be used for district-wide activities and
9 for training that is mandated by federal or state law. The use of three (3) days
10 shall be planned by each school council, except that the district is encouraged
11 to provide technical assistance and leadership to school councils to maximize
12 existing resources and to encourage shared planning.

13 (b) At least one (1) hour of self-study review of seizure disorder materials shall
14 be required for all principals, guidance counselors, and teachers hired after
15 July 1, 2019.

16 (c) 1. A local board may approve a school's flexible professional development
17 plan that permits teachers or other certified personnel within a school to
18 participate in professional development activities outside the days
19 scheduled in the school calendar or the regularly scheduled hours in the
20 school work day and receive credit towards the four (4) day professional
21 development requirement within the minimum one hundred eighty-five
22 (185) days that a teacher shall be employed.

23 2. A flexible schedule option shall be reflected in the school's professional
24 development component within the school improvement plan and
25 approved by the local board. Credit for approved professional
26 development activities may be accumulated in periods of time other than
27 full day segments.

- 1 3. No teacher or administrator shall be permitted to count participation in a
2 professional development activity under the flexible schedule option
3 unless the activity is related to the teacher's classroom assignment and
4 content area, or the administrator's job requirements, or is required by
5 the school improvement plan, or is tied to the teacher's or the
6 administrator's individual growth plan. The supervisor shall give prior
7 approval and shall monitor compliance with the requirements of this
8 paragraph. In the case of teachers, a professional development
9 committee or the school council by council policy may be responsible
10 for reviewing requests for approval.
- 11 (d) The local board of each school district may use up to a maximum of four (4)
12 days of the minimum school term for holidays; provided, however, any
13 holiday which occurs on Saturday may be observed on the preceding Friday.
- 14 (e) Each local board may use two (2) days for planning activities without the
15 presence of students.
- 16 (f) Each local board may close schools for the number of days deemed necessary
17 for:
- 18 1. National or state emergency or mourning when proclaimed by the
19 President of the United States or the Governor of the Commonwealth of
20 Kentucky;
- 21 2. Local emergency which would endanger the health or safety of children;
22 and
- 23 3. Mourning when so designated by the local board of education and
24 approved by the Kentucky Board of Education upon recommendation of
25 the commissioner of education.
- 26 (4) (a) The Kentucky Board of Education, upon recommendation of the
27 commissioner of education, shall adopt administrative regulations governing

1 the use of student attendance days as a result of a local emergency, as
2 described in subsection (3)(f)2. of this section, and regulations setting forth
3 the guidelines and procedures to be observed for the approval of waivers from
4 the requirements of a student instructional year in subsection (1)(f) of this
5 section for districts that wish to adopt innovative instructional calendars, or
6 for circumstances that would create extreme hardship.

7 (b) If a local board of education amends its school calendar after its adoption due
8 to an emergency, it may lengthen or shorten any remaining student attendance
9 days by thirty (30) minutes or more, as it deems necessary, provided the
10 amended calendar complies with the requirements of a student instructional
11 year in subsection (1)(f) of this section or a variable student instructional year
12 in subsection (1)(h) of this section. No student attendance day shall contain
13 more than seven (7) hours of instructional time unless the district submitted
14 and received approval from the commissioner of education for an innovative
15 alternative calendar.

- 16 (5) (a) 1. In setting the school calendar, school may be closed for two (2)
17 consecutive days for the purpose of permitting professional school
18 employees to attend statewide professional meetings.
- 19 2. These two (2) days for statewide professional meetings may be
20 scheduled to begin with the first Thursday after Easter, or upon request
21 of the statewide professional education association having the largest
22 paid membership, the commissioner of education may designate
23 alternate dates.
- 24 3. If schools are scheduled to operate during days designated for the
25 statewide professional meeting, the school district shall permit
26 employees who are delegates to attend as compensated professional
27 leave time and shall employ substitute teachers in their absence.

- 1 4. The commissioner of education shall designate one (1) additional day
2 during the school year when schools may be closed to permit
3 professional school employees to participate in regional or district
4 professional meetings.
- 5 5. These three (3) days so designated for attendance at professional
6 meetings may be counted as a part of the minimum school term.
- 7 (b) 1. If any school in a district is used as a polling place, the school district
8 shall be closed on the day of the election, and those days may be used
9 for professional development activities, professional meetings, or
10 parent-teacher conferences.
- 11 2. A district may be open on the day of an election if no school in the
12 district is used as a polling place.
- 13 (c) All schools shall be closed on the third Monday of January in observance of
14 the birthday of Martin Luther King, Jr. Districts may:
- 15 1. Designate the day as one (1) of the four (4) holidays permitted under
16 subsection (3)(d) of this section; or
- 17 2. Not include the day in the minimum school term specified in subsection
18 (1) of this section.
- 19 (6) (a) The Kentucky Board of Education, or the organization or agency designated
20 by the board to manage interscholastic athletics, shall be encouraged to
21 schedule athletic competitions outside the regularly scheduled student
22 attendance day.
- 23 (b) Any member of a school-sponsored interscholastic athletic team who
24 competes in a regional tournament or state tournament sanctioned by the
25 Kentucky Board of Education, or the organization or agency designated by the
26 board to manage interscholastic athletics, and occurring on a regularly
27 scheduled student attendance day may be counted present at school on the

1 date or dates of the competition, as determined by local board policy, for a
2 maximum of two (2) days per student per year. The student shall be expected
3 to complete any assignments missed on the date or dates of the competition.

4 (c) The school attendance record of any student for whom paragraph (b) of this
5 subsection applies shall indicate that the student was in attendance on the date
6 or dates of competition.

7 (7) Schools shall provide continuing education for those students who are determined
8 to need additional time to achieve the outcomes defined in KRS 158.6451, and
9 schools shall not be limited to the minimum school term in providing this
10 education. Continuing education time may include extended days, extended weeks,
11 or extended years. A local board of education may adopt a policy requiring its
12 students to participate in continuing education. The local policy shall set out the
13 conditions under which attendance will be required and any exceptions which are
14 provided. The Kentucky Board of Education shall promulgate administrative
15 regulations establishing criteria for the allotment of grants to local school districts
16 and shall include criteria by which the commissioner of education may approve a
17 district's request for a waiver under Section 1 of this Act to use an alternative
18 service delivery option, including providing services during the student attendance
19 day on a limited basis. These grants shall be allotted to school districts to provide
20 instructional programs for pupils who are identified as needing additional time to
21 achieve the outcomes defined in KRS 158.6451. A school district that has a school
22 operating a model early reading program under KRS 158.792 may use a portion of
23 its grant money as part of the matching funds to provide individualized or small
24 group reading instruction to qualified students outside of the regular classroom
25 during the student attendance day.

26 (8) Notwithstanding any other statute, each school term shall include no less than the
27 equivalent of the student instructional year in subsection (1)(f) of this section, or a

1 variable student instructional year in subsection (1)(h) of this section, except that
2 the commissioner of education may grant up to the equivalent of ten (10) student
3 attendance days for school districts that have a nontraditional instruction plan
4 approved by the commissioner of education on days when the school district is
5 closed for health or safety reasons. The district's plan shall indicate how the
6 nontraditional instruction process shall be a continuation of learning that is
7 occurring on regular student attendance days. Instructional delivery methods,
8 including the use of technology, shall be clearly delineated in the plan. Average
9 daily attendance for purposes of Support Education Excellence in Kentucky
10 program funding during the student attendance days granted shall be calculated in
11 compliance with administrative regulations promulgated by the Kentucky Board of
12 Education.

13 (9) The Kentucky Board of Education shall promulgate administrative regulations to
14 prescribe the conditions and procedures for districts to be approved for the
15 nontraditional instruction program. Administrative regulations promulgated by the
16 board under this section shall specify:

- 17 (a) The application, plan review, approval, and amendment process;
- 18 (b) Reporting requirements for districts approved for the program, which may
19 include but are not limited to examples of student work, lesson plans, teacher
20 work logs, and student and teacher participation on nontraditional instruction
21 days. Documentation to support the use of nontraditional instruction days
22 shall include clear evidence of learning continuation;
- 23 (c) Timelines for initial approval as a nontraditional instruction district, length of
24 approval, the renewal process, and ongoing evaluative procedures required of
25 the district;
- 26 (d) Reporting and oversight responsibilities of the district and the Kentucky
27 Department of Education, including the documentation required to show clear

1 evidence of learning continuation during nontraditional instruction days; and

2 (e) Other components deemed necessary to implement this section.

3 (10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection
4 (2) of this section, a school district shall arrange bus schedules so that all buses
5 arrive in sufficient time to provide breakfast prior to the beginning of the student
6 attendance day. The superintendent of a school district that participates in the
7 Federal School Breakfast Program may also authorize up to fifteen (15) minutes of
8 the student attendance day to provide the opportunity for children to eat breakfast
9 during instructional time.

10 (11) Notwithstanding any other statute to the contrary, the following provisions shall
11 apply to a school district that misses student attendance days due to emergencies,
12 including weather-related emergencies:

13 (a) A certified school employee shall be considered to have fulfilled the
14 minimum one hundred eighty-five (185) day contract with a school district
15 under KRS 157.350 and shall be given credit for the purpose of calculating
16 service credit for retirement under KRS 161.500 for certified school personnel
17 if:

18 1. State and local requirements under this section are met regarding the
19 equivalent of the number and length of student attendance days, teacher
20 professional days, professional development days, holidays, and days
21 for planning activities without the presence of students; and

22 2. The provisions of the district's school calendar to make up student
23 attendance days missed due to any emergency, as approved by the
24 Kentucky Department of Education when required, including but not
25 limited to a provision for additional instructional time per day, are met.

26 (b) Additional time worked by a classified school employee shall be considered
27 as equivalent time to be applied toward the employee's contract and

1 calculation of service credit for classified employees under KRS 78.615 if:

- 2 1. The employee works for a school district with a school calendar
- 3 approved by the Kentucky Department of Education that contains a
- 4 provision that additional instructional time per day shall be used to make
- 5 up full days missed due to an emergency;
- 6 2. The employee's contract requires a minimum six (6) hour work day; and
- 7 3. The employee's job responsibilities and work day are extended when the
- 8 instructional time is extended for the purposes of making up time.

- 9 (c) Classified employees who are regularly scheduled to work less than six (6)
- 10 hours per day and who do not have additional work responsibilities as a result
- 11 of lengthened student attendance days shall be excluded from the provisions
- 12 of this subsection. These employees may be assigned additional work
- 13 responsibilities to make up service credit under KRS 78.615 that would be
- 14 lost due to lengthened student attendance days.

15 ➔Section 6. KRS 158.080 is amended to read as follows:

16 Private and parochial schools certified in accordance with KRS 156.160(3) shall:

- 17 (1) Be taught in the English language and shall offer instruction in the several branches
- 18 of study required to be taught in the public schools of the state, consistent with KRS
- 19 156.445(2)~~[(3)]~~; and
- 20 (2) Operate on a school calendar with a minimum school term and student instructional
- 21 year, as defined in KRS 158.070.

22 ➔Section 7. KRS 158.854 is amended to read as follows:

- 23 (1) The Kentucky Board of Education shall promulgate an administrative regulation in
- 24 accordance with KRS Chapter 13A to specify the minimum nutritional standards
- 25 for all foods and beverages that are sold outside the National School Breakfast and
- 26 National School Lunch programs, whether in vending machines, school stores,
- 27 canteens, or a la carte cafeteria sales. Minimum nutritional standards shall be based

1 on the most recent edition of the United States Department of Agriculture's Dietary
2 Guidelines for Americans. The administrative regulation shall address serving size,
3 sugar, and fat content of the foods and beverages. School districts may impose more
4 stringent standards than the standards implemented under the administrative
5 regulation. A school shall follow the minimum standards specified in the
6 administrative regulation unless a waiver has been requested under Section 1 of
7 this Act by the school district for the school from the Kentucky Board of Education.
8 Notwithstanding the duration of a waiver granted under Section 1 of this Act, any
9 waiver approved by the Board of Education relating to this section shall be
10 reviewed on an annual basis.

11 (2) As used in this section:

- 12 (a) "Competitive food" means any food or beverage item sold in competition with
13 the National School Breakfast and National School Lunch programs. The term
14 does not include any food or beverage sold a la carte in the cafeteria;
- 15 (b) "School day" means the period of time between the arrival of the first student
16 at the school building and the end of the last instructional period; and
- 17 (c) "School-day-approved beverage" means water, one hundred percent (100%)
18 fruit juice, lowfat milk, and any beverage that contains no more than ten (10)
19 grams of sugar per serving.

20 (3) No school may sell competitive foods or beverages from the time of the arrival of
21 the first student at the school building until thirty (30) minutes after the last lunch
22 period.

23 (4) Only school-day-approved beverages shall be sold in elementary schools during the
24 school day in vending machines, school stores, canteens, or fundraisers that sell
25 beverages by students, teachers, or groups.

26 (5) Nothing in this section or KRS 158.850 shall be construed to limit the sale of any
27 foods or beverages by fundraisers off school property.

➔Section 8. KRS 160.151 is amended to read as follows:

- (1) (a)
 1. A private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with KRS 156.160~~(2)~~~~(3)~~ may require a national and state criminal background check and require a clear CA/N check, as defined in KRS 160.380, on all new certified hires in the school and student teachers assigned to the school and may require a new national and state criminal background check and require a clear CA/N check on each certified teacher once every five (5) years of employment.
 2. Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check and were required to have a clear CA/N check for previous employment may be excluded from the initial national or state criminal background checks.
- (b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check shall be conducted by the Department of Kentucky State Police or the Administrative Office of the Courts.
- (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation by the Department of Kentucky State Police after a state criminal background check has been conducted. Any fee charged by the Department of Kentucky State Police, the Administrative Office of the Courts, or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

- 1 (2) (a) If a school requires a criminal background check or requires a clear CA/N
2 check for a new hire, the school shall conspicuously include the following
3 disclosure statement on each application or renewal form provided by the
4 employer to an applicant for a certified position: "STATE LAW
5 AUTHORIZES THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY
6 BACKGROUND CHECK AND A LETTER FROM THE CABINET FOR
7 HEALTH AND FAMILY SERVICES STATING THE APPLICANT IS
8 CLEAR TO HIRE BASED ON NO FINDINGS OF SUBSTANTIATED
9 CHILD ABUSE OR NEGLECT FOUND THROUGH A BACKGROUND
10 CHECK OF CHILD ABUSE AND NEGLECT RECORDS AS A
11 CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."
- 12 (b) The school or school board may require an adult who is permitted access to
13 school grounds on a regularly scheduled and continuing basis pursuant to a
14 written agreement for the purpose of providing services directly to a student
15 or students as part of a school-sponsored program or activity, a volunteer, or a
16 visitor to submit to a national criminal history check by the Federal Bureau of
17 Investigation and state criminal history background check by the Department
18 of Kentucky State Police or Administrative Office of the Courts and require a
19 clear CA/N check.
- 20 (c) Any request for records from the Department of Kentucky State Police under
21 this section shall be on an applicant fingerprint card provided by the
22 Department of Kentucky State Police if required. The results of the state
23 criminal background check and the results of the national criminal history
24 background check, if requested, shall be sent to the hiring superintendent. If a
25 background check of child abuse and neglect records is requested, the person
26 seeking employment shall provide to the hiring superintendent a clear CA/N
27 check.

- 1 (d) Any fee charged by the Department of Kentucky State Police shall be an
2 amount no greater than the actual cost of processing the request and
3 conducting the search.
- 4 (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter
5 may choose not to employ any person who is a violent offender as defined by
6 KRS 17.165(2), has been convicted of a sex crime which is classified as a
7 felony as defined by KRS 17.165(1), or has committed a violent crime as
8 defined in KRS 17.165(3) or persons with a substantiated finding of child
9 abuse or neglect in records maintained by the Cabinet for Health and Family
10 Services. A nonpublic school may employ, at its discretion, persons convicted
11 of sex crimes classified as a misdemeanor.
- 12 (b) If a school term has begun and a certified position remains unfilled or if a
13 vacancy occurs during a school term, a nonpublic school implementing this
14 chapter may employ an individual who will have supervisory or disciplinary
15 authority over minors on probationary status pending receipt of a criminal
16 history background check or the receipt of a clear CA/N check, provided by
17 the individual.
- 18 (c) Employment at a nonpublic school implementing this chapter may be
19 contingent on the receipt of a criminal history background check documenting
20 a record as a violent offender, of a sex crime, or of a violent crime as defined
21 in KRS 17.165 or the receipt of a clear CA/N check, provided by the
22 individual.
- 23 (d) Nonpublic schools implementing this chapter may terminate probationary
24 employment under this section upon receipt of a criminal history background
25 check documenting a record as a violent offender, of a sex crime, or of a
26 violent crime as defined in KRS 17.165 or the receipt of a clear CA/N check.
- 27 (4) The form for requesting a clear CA/N check shall be made available on the Cabinet

1 for Health and Family Services Web site.

2 ➔Section 9. KRS 160.380 is amended to read as follows:

3 (1) As used in this section:

4 (a) "Administrative finding of child abuse or neglect" means a substantiated
5 finding of child abuse or neglect issued by the Cabinet for Health and Family
6 Services that is:

7 1. Not appealed through an administrative hearing conducted in
8 accordance with KRS Chapter 13B;

9 2. Upheld at an administrative hearing conducted in accordance with KRS
10 Chapter 13B and not appealed to a Circuit Court; or

11 3. Upheld by a Circuit Court in an appeal of the results of an
12 administrative hearing conducted in accordance with KRS Chapter 13B;

13 (b) "Alternative education program" means a program that exists to meet the
14 needs of students that cannot be addressed in a traditional classroom setting
15 but through the assignment of students to alternative classrooms, centers, or
16 campuses that are designed to remediate academic performance, improve
17 behavior, or provide an enhanced learning experience. Alternative education
18 programs do not include career or technical centers or departments;

19 (c) "Clear CA/N check" means a letter from the Cabinet for Health and Family
20 Services indicating that there are no administrative findings of child abuse or
21 neglect relating to a specific individual;

22 (d) "Relative" means father, mother, brother, sister, husband, wife, son and
23 daughter; and

24 (e) "Vacancy" means any certified position opening created by the resignation,
25 dismissal, nonrenewal of contract, transfer, or death of a certified staff
26 member of a local school district, or a new position created in a local school
27 district for which certification is required. However, if an employer-employee

1 bargained contract contains procedures for filling certified position openings
2 created by the resignation, dismissal, nonrenewal of contract, transfer, or
3 death of a certified staff member, or creation of a new position for which
4 certification is required, a vacancy shall not exist, unless certified positions
5 remain open after compliance with those procedures.

6 (2) Except as provided in KRS 160.346, the school district personnel actions identified
7 in this section shall be carried out as follows:

8 (a) All appointments, promotions, and transfers of principals, supervisors,
9 teachers, and other public school employees shall be made only by the
10 superintendent of schools, who shall notify the board of the action taken. All
11 employees of the local district shall have the qualifications prescribed by law
12 and by the administrative regulations of the Kentucky Board of Education and
13 of the employing board. Supervisors, principals, teachers, and other
14 employees may be appointed by the superintendent for any school year at any
15 time after February 1 preceding the beginning of the school year. No
16 superintendent of schools shall appoint or transfer himself or herself to
17 another position within the school district;

18 (b) When a vacancy occurs in a local school district, the superintendent shall
19 submit the job posting to the statewide job posting system described in KRS
20 160.152 fifteen (15) days before the position shall be filled. The local school
21 district shall post position openings in the local board office for public
22 viewing;

23 (c) When a vacancy needs to be filled in less than fifteen (15) days' time to
24 prevent disruption of necessary instructional or support services of the school
25 district, the superintendent may seek a waiver from the chief state school
26 officer *outside of the process established in Section 1 of this Act.* If the
27 waiver is approved, the appointment shall not be made until the person

1 recommended for the position has been approved by the chief state school
2 officer. The chief state school officer shall respond to a district's request for
3 waiver or for approval of an appointment within two (2) working days; and

4 (d) When a vacancy occurs in a local district, the superintendent shall conduct a
5 search to locate minority teachers to be considered for the position. The
6 superintendent shall, pursuant to administrative regulations of the Kentucky
7 Board of Education, report annually the district's recruitment process and the
8 activities used to increase the percentage of minority teachers in the district.

9 (3) Restrictions on employment of relatives shall be as follows:

10 (a) No relative of a superintendent of schools shall be an employee of the school
11 district. However, this shall not apply to a relative who is a classified or
12 certified employee of the school district for at least thirty-six (36) months
13 prior to the superintendent assuming office and who is qualified for the
14 position the employee holds. A superintendent's spouse who has previously
15 been employed in a school system may be an employee of the school district.
16 A superintendent's spouse who is employed under this provision shall not hold
17 a position in which the spouse supervises certified or classified employees. A
18 superintendent's spouse may supervise teacher aides and student teachers.
19 However, the superintendent shall not promote a relative who continues
20 employment under an exception of this subsection;

21 (b) No superintendent shall employ a relative of a school board member of the
22 district;

23 (c) No principal's relative shall be employed in the principal's school; and

24 (d) A relative that is ineligible for employment under paragraph (a), (b), or (c) of
25 this subsection may be employed as a substitute for a certified or classified
26 employee if the relative is not:

27 1. A regular full-time or part-time employee of the district;

- 1 2. Accruing continuing contract status or any other right to continuous
- 2 employment;
- 3 3. Receiving fringe benefits other than those provided other substitutes; or
- 4 4. Receiving preference in employment or assignment over other
- 5 substitutes.
- 6 (4) No superintendent shall assign a certified or classified staff person to an alternative
- 7 education program as part of any disciplinary action taken pursuant to KRS 161.011
- 8 or 161.790 as part of a corrective action plan established pursuant to the local
- 9 district evaluation plan.
- 10 (5) No superintendent shall employ in any position in the district any person who:
- 11 (a) Has been convicted of an offense that would classify a person as a violent
- 12 offender under KRS 439.3401;
- 13 (b) Has been convicted of a sex crime as defined by KRS 17.500 or a
- 14 misdemeanor offense under KRS Chapter 510;
- 15 (c) Is required to register as a sex offender under KRS 17.500 to 17.580; or
- 16 (d) Has an administrative finding of child abuse or neglect in records maintained
- 17 by the Cabinet for Health and Family Services.
- 18 (6) Requirements for background checks shall be as follows:
- 19 (a) A superintendent shall require the following individuals to submit to a
- 20 national and state criminal background check by the Department of Kentucky
- 21 State Police and the Federal Bureau of Investigation and have a clear CA/N
- 22 check, provided by the individual:
- 23 1. Each new certified or classified hire;
- 24 2. A nonfaculty coach or nonfaculty assistant as defined under KRS
- 25 161.185;
- 26 3. A student teacher;
- 27 4. A school-based decision making council parent member; and

- 1 5. Any adult who is permitted access to school grounds on a regularly
2 scheduled and continuing basis pursuant to a written agreement for the
3 purpose of providing services directly to a student or students as part of
4 a school-sponsored program or activity;
- 5 (b) 1. The requirements of paragraph (a) of this subsection shall not apply to:
- 6 a. Classified and certified individuals employed by the school district
7 prior to June 27, 2019;
- 8 b. Certified individuals who were employed in another certified
9 position in a Kentucky school district within six (6) months of the
10 date of hire and who had previously submitted to a national and
11 state criminal background check and who have a clear CA/N check
12 for the previous employment; or
- 13 c. Student teachers who have submitted to and provide a copy of a
14 national and state criminal background check by the Department
15 of Kentucky State Police and the Federal Bureau of Investigation
16 through an accredited teacher education institution in which the
17 student teacher is enrolled and who have a clear CA/N check.
- 18 2. The Education Professional Standards Board may promulgate
19 administrative regulations to impose additional qualifications to meet
20 the requirements of Pub. L. No. 92-544;
- 21 (c) A parent member may serve prior to the receipt of the criminal history
22 background check and CA/N letter required by paragraph (a) of this
23 subsection but shall be removed from the council on receipt by the school
24 district of a report documenting a record of abuse or neglect, or a sex crime or
25 criminal offense against a victim who is a minor as defined in KRS 17.500, or
26 as a violent offender as defined in KRS 17.165, and no further procedures
27 shall be required;

- 1 (d) A superintendent may require a volunteer or a visitor to submit to a national
2 and state criminal history background check by the Department of Kentucky
3 State Police and the Federal Bureau of Investigation and have a clear CA/N
4 check, provided by the individual; and
- 5 (e) The superintendent of a school district operating under an alternative
6 transportation plan approved by the Kentucky Department of Education in
7 accordance with KRS 156.153(3) shall require the driver of any non-school
8 bus passenger vehicle authorized to transport students to and from school
9 pursuant to the alternative transportation plan who does not have a valid
10 commercial driver's license issued in accordance with KRS Chapter 281A
11 with an "S" endorsement to:
- 12 1. Submit to a national and state criminal background check by the
13 Department of Kentucky State Police and the Federal Bureau of
14 Investigation at least once every three (3) years and a criminal records
15 check conducted in accordance with KRS 27A.090 in all other years;
 - 16 2. Submit to drug testing consistent with the requirements of 49 C.F.R. pt.
17 40;
 - 18 3. Provide a biannual driving history record check performed by the
19 Transportation Cabinet;
 - 20 4. Provide an annual clear CA/N check;
 - 21 5. Immediately notify the superintendent of any conviction for a violation
22 under KRS Chapter 189 for which penalty points are assessed; and
 - 23 6. Immediately notify the superintendent of any citation or arrest for a
24 violation of any provision of KRS Chapter 189A. The superintendent
25 shall inform the Kentucky Department of Education of the notification.
- 26 (7) (a) If a certified or classified position remains unfilled after July 31 or if a
27 vacancy occurs during a school term, a superintendent may employ an

1 individual, who will have supervisory or disciplinary authority over minors,
2 on probationary status pending receipt of the criminal history background
3 check and a clear CA/N check, provided by the individual. Application for the
4 criminal record and a request for a clear CA/N check of a probationary
5 employee shall be made no later than the date probationary employment
6 begins.

7 (b) Employment shall be contingent on the receipt of the criminal history
8 background check documenting that the probationary employee has no record
9 of a sex crime nor as a violent offender as defined in KRS 17.165 and receipt
10 of a letter, provided by the individual, from the Cabinet for Health and Family
11 Services stating the employee is clear to hire based on no administrative
12 findings of child abuse or neglect found through a background check of child
13 abuse and neglect records maintained by the Cabinet for Health and Family
14 Services.

15 (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary,
16 probationary employment under this section shall terminate on receipt by the
17 school district of a criminal history background check documenting a record
18 of a sex crime or as a violent offender as defined in KRS 17.165 and no
19 further procedures shall be required.

20 (8) The provisions of KRS 161.790 shall apply to terminate employment of a certified
21 employee on the basis of a criminal record other than a record of a sex crime or as a
22 violent offender as defined in KRS 17.165, or on the basis of a CA/N check
23 showing an administrative finding of child abuse or neglect.

24 (9) (a) All fingerprints requested under this section shall be on an applicant
25 fingerprint card provided by the Department of Kentucky State Police. The
26 fingerprint cards shall be forwarded to the Federal Bureau of Investigation
27 from the Department of Kentucky State Police after a state criminal

1 background check is conducted. The results of the state and federal criminal
2 background check shall be sent to the hiring superintendent. Any fee charged
3 by the Department of Kentucky State Police, the Federal Bureau of
4 Investigation, and the Cabinet for Health and Family Services shall be an
5 amount no greater than the actual cost of processing the request and
6 conducting the search.

7 (b) Each application form, provided by the employer to an applicant for a
8 certified or classified position, shall conspicuously state the following: "FOR
9 THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL
10 AND STATE CRIMINAL HISTORY BACKGROUND CHECK AND A
11 LETTER, PROVIDED BY THE INDIVIDUAL, FROM THE CABINET
12 FOR HEALTH AND FAMILY SERVICES STATING THE APPLICANT
13 HAS NO ADMINISTRATIVE FINDINGS OF CHILD ABUSE OR
14 NEGLECT FOUND THROUGH A BACKGROUND CHECK OF CHILD
15 ABUSE AND NEGLECT RECORDS MAINTAINED BY THE CABINET
16 FOR HEALTH AND FAMILY SERVICES."

17 (c) Each application form for a district position shall require the applicant to:
18 1. Identify the states in which he or she has maintained residency,
19 including the dates of residency; and
20 2. Provide picture identification.

21 (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary,
22 when an employee of the school district is charged with any offense which is
23 classified as a felony, the superintendent may transfer the employee to a second
24 position until such time as the employee is found not guilty, the charges are
25 dismissed, the employee is terminated, or the superintendent determines that further
26 personnel action is not required. The employee shall continue to be paid at the same
27 rate of pay he or she received prior to the transfer. If an employee is charged with

1 an offense outside of the Commonwealth, this provision may also be applied if the
2 charge would have been treated as a felony if committed within the
3 Commonwealth. Transfers shall be made to prevent disruption of the educational
4 process and district operations and in the interest of students and staff and shall not
5 be construed as evidence of misconduct.

6 (11) Notwithstanding any law to the contrary, each certified and classified employee of
7 the school district shall notify the superintendent if he or she has been found by the
8 Cabinet for Health and Family Services to have abused or neglected a child, and if
9 he or she has waived the right to appeal a substantiated finding of child abuse or
10 neglect or if the substantiated incident was upheld upon appeal. Any failure to
11 report this finding shall result in the certified or classified employee being subject
12 to dismissal or termination.

13 (12) The form for requesting a CA/N check shall be made available on the Cabinet for
14 Health and Family Services website.

15 ➔Section 10. KRS 164.769 is amended to read as follows:

16 (1) It is the intent of the General Assembly to establish a teacher scholarship program
17 to assist highly qualified individuals to become certified Kentucky teachers and
18 render teaching service in Kentucky schools.

19 (2) For purposes of this section, the terms listed below shall have the following
20 meanings:

21 (a) "Critical shortage area" means an understaffing of teachers in particular
22 subject matters at the secondary level, in grade levels, or in geographic
23 locations at the elementary and secondary level, as determined by the
24 commissioner of education in consultation with the authority. The
25 commissioner and the authority may use any source considered reliable,
26 including but not limited to local education agencies, to identify the critical
27 shortage areas;

- 1 (b) "Dual credit" has the same meaning as in KRS 158.007;
- 2 (c) "Eligible program of study" means an undergraduate or graduate program of
3 study which is preparatory to teacher certification;
- 4 (d) "Expected family contribution" means the amount that a student and his
5 family are expected to contribute toward the cost of the student's education
6 determined by applying methodology set forth in 20 U.S.C. sec. 1087 kk to
7 1087 vv;
- 8 (e) "Participating institution" means an institution of higher education located in
9 Kentucky which offers an eligible program of study and has in force an
10 agreement with the authority providing for administration of this program;
- 11 (f) "Qualified teaching service" means teaching the major portion of each school
12 day for at least seventy (70) days each semester in a public school of the
13 Commonwealth or a private school certified pursuant to KRS 156.160~~(2)~~~~(3)~~,
14 except that an individual having a disability defined by Title II of the
15 Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.) or serious and
16 extended illness, whose disability or illness, certified by a licensed physician,
17 prevents that individual from teaching a major portion of each school day,
18 shall be deemed to perform qualified teaching service by teaching the
19 maximum time permitted by the attending physician;
- 20 (g) "Semester" means a period of about eighteen (18) weeks, which usually
21 makes up one-half (1/2) of a school year or one-half (1/2) of a participating
22 institution's academic year; and
- 23 (h) "Summer term" means an academic period consisting of one (1) or more
24 sessions of instruction between a spring and a fall semester.
- 25 (3) The authority may, to the extent of appropriations and other funds available to it
26 pursuant to subsection (9) of this section, award teacher scholarships to persons
27 eligible under subsection (4) of this section, who initially demonstrate financial

1 need in accordance with standards and criteria established by the authority or
2 received teacher scholarships pursuant to this section prior to July 1, 1996. Each
3 teacher scholarship shall be evidenced by a promissory note that requires repayment
4 or cancellation pursuant to subsection (6) of this section.

5 (4) Kentucky residents who are United States citizens and enrolled or accepted for
6 enrollment in an eligible program of study at a participating institution shall be
7 eligible to apply for and be awarded teacher scholarships. Teacher scholarships
8 shall first be awarded to highly qualified eligible students who meet standards and
9 requirements established by the Education Professional Standards Board pursuant
10 to KRS 161.028 for admission to a teacher education program at a participating
11 institution in pursuit of initial teacher certification. If funds are not depleted after
12 awarding teacher scholarships to students who meet the preceding criteria, then
13 awards shall be made to any otherwise eligible students.

14 (5) The authority shall establish, by administrative regulation, the maximum amount of
15 scholarship to be awarded for each semester and summer term under this section.
16 The amount of each scholarship to be awarded shall not exceed the applicant's total
17 cost of education minus other financial assistance received or expected to be
18 received by the applicant during the academic period.

19 (6) (a) The authority shall disburse teacher scholarships to eligible students who
20 agree to render qualified teaching service as certified teachers, and are
21 unconditionally admitted and enrolled in an eligible program of study.

22 (b) A teacher scholarship shall not be awarded or a promissory note cancellation
23 shall not be granted to any person who is in default on any obligation to the
24 authority under any program administered by the authority pursuant to KRS
25 164.740 to 164.785 until financial obligations to the authority are satisfied,
26 except that ineligibility for this reason may be waived by the authority for
27 cause.

- 1 (c) Recipients shall render one (1) semester of qualified teaching service for each
2 semester or summer term of scholarship received, except that recipients who
3 teach in a critical shortage area designated by the authority or teach dual
4 credit coursework in a certified Kentucky high school shall render one (1)
5 semester of qualified teaching service as repayment for two (2) semesters or
6 summer terms of scholarships received. Upon completion of each semester of
7 qualified teacher service, the authority shall cancel the appropriate number of
8 promissory notes.
- 9 (d) If the recipient of a teacher scholarship fails to complete an eligible program
10 of study at a participating institution or fails to render qualified teaching
11 service in any semester following certification or recertification, unless the
12 failure is temporarily waived for cause by the authority, the recipient shall
13 immediately become liable to the authority for repayment of the sum of all
14 outstanding promissory notes and accrued interest. Persons liable for
15 repayment of scholarships under this paragraph shall be liable for interest
16 accruing from the dates on which the teacher scholarships were disbursed.
- 17 (e) Recipients who have outstanding loans or scholarships under KRS 156.611,
18 156.613, 164.768, or 164.770 respectively, and who render qualified teaching
19 service, shall have their notes canceled in accordance with subsection (6)(c) of
20 this section.
- 21 (f) The authority shall establish, by administrative regulation, the terms and
22 conditions for the award, cancellation, and repayment of teacher scholarships
23 including, but not limited to, the selection criteria, eligibility for renewal
24 awards, amount of scholarship payments, deferments, the rate of repayment,
25 and the interest rate thereon.
- 26 (g) Notwithstanding any other statute to the contrary, the maximum interest rate
27 applicable to repayment of a promissory note under this section shall be eight

1 percent (8%) per annum, except that if a judgment is rendered to recover
2 payment, the judgment shall bear interest at the rate of five percent (5%)
3 greater than the rate actually charged on the promissory note.

4 (7) A repayment obligation imposed by this section shall not be voidable by reason of
5 the age of the recipient at the time of receiving the teacher scholarship.

6 (8) Failure to meet repayment obligations imposed by this section shall be cause for the
7 revocation of a person's teaching certificate, subject to the procedures set forth in
8 KRS 161.120.

9 (9) All moneys repaid to the authority under this section shall be added to the
10 appropriations made for purposes of this section, and the funds and unobligated
11 appropriations shall not lapse.

12 (10) The authority may execute appropriate contracts and promissory notes for
13 administering this section.

14 (11) Notwithstanding any other statute to the contrary, if available funds are insufficient
15 for all requested scholarships for eligible applicants during any fiscal year, the
16 authority shall give priority consideration to eligible applicants who previously
17 received teacher scholarships and, until June 30, 2018, to loan forgiveness for
18 teachers who have outstanding loan balance eligibility for Best in Class loans issued
19 prior to June 30, 2008. If funds are insufficient to make all requested renewal
20 scholarships to eligible applicants, the authority shall reduce all scholarship awards
21 to the extent necessary to provide scholarships to all qualified renewal applicants.
22 If, after awarding all eligible renewal applicants, funds are not depleted, initial
23 applications shall be ranked according to regulatory selection criteria, which may
24 include expected family contribution and application date, and awards shall be
25 made to highly qualified applicants until funds are depleted.

26 (12) The authority shall submit a report on the number of teacher scholarships provided
27 in each fiscal year, the program of study in which recipients are enrolled, recipient

1 retention rates, total number of applications, and scholarship recruitment strategies
2 to the Interim Joint Committee on Education by December 1 of each year.

3 ➔Section 11. The following KRS sections are repealed:

4 156.108 Districts of innovation -- Definitions -- Approval by Kentucky Board of
5 Education -- Administrative regulations to prescribe conditions and procedures to
6 be used by local boards.

7 160.107 Application and implementation requirements for districts of innovation.

8 ➔Section 12. This Act may be cited as the School Innovation Act.