

AN ACT relating to the School Facilities Construction Commission and declaring an emergency.

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

➔Section 1. KRS 157.617 is amended to read as follows:

- (1) An independent corporate agency and instrumentality of the Commonwealth is hereby created and established with all the general corporate powers incidental thereto. The corporation shall be known as "The School Facilities Construction Commission" and shall be endowed with perpetual succession and with the power to contract and to be contracted with, to sue and be sued, to have and to use a corporate seal, to adopt bylaws and regulations, subject to the provisions of KRS Chapter 13A, for the orderly conduct of its affairs.
- (2) **(a)** The commission shall consist of:
 - 1.** The secretary of the Finance and Administration Cabinet;
 - 2.** ***The commissioner of education;***
 - 3.** ***Two (2) members, appointed by the Governor, who have expertise in long-term debt financing;***
 - 4.** ***One (1) member, appointed by the Governor, who is a licensed professional engineer as defined in KRS 322.010 and has facility planning and construction experience;***
 - 5.** ***One (1) member, appointed by the Governor, who is a licensed architect as defined in KRS 323.010 and has facility planning and construction experience; and***
 - 6.** ***One (1) member, appointed by the Governor, who is a member of the Kentucky Association of School Administrators and is selected from a list of three (3) candidates submitted by the association*** ~~and eight (8) members appointed by the Governor. The members shall possess a knowledge of long-term debt financing or school facility planning and~~

construction].

- (b) Appointments~~[Appointment]~~ shall become effective on January 1 and end on December 31, except for the~~[initial]~~ appointments made in accordance with paragraph (d) of this subsection~~[shall become effective when made by the Governor]~~. Members shall serve staggered six (6) year terms, except that when making the~~[initial]~~ appointments under paragraph (d) of this subsection two (2) ~~[three (3)]~~ members shall be appointed for six (6) year terms, two (2)~~[three (3)]~~ members shall be appointed for four (4) year terms, and one (1) member~~[two (2) members]~~ shall be appointed for a~~[two]~~ (2) year term~~[terms]~~. Members may be reappointed for one (1) term only.
- (c) The Governor shall appoint a chairman and vice chairman after making appointments in accordance with paragraph (d) of this subsection~~[for the first year]~~; thereafter a chairman and vice chairman shall be elected annually by the membership. The commission may elect other officers it considers necessary~~[and shall employ a director and staff necessary to manage the program]~~.
- (d) Effective at 11:59 p.m. on June 30, 2016, all terms of gubernatorial appointees to the commission shall expire. Effective July 1, 2016, the Governor shall appoint five (5) members to the commission in accordance with paragraph (a) of this subsection.
- (e) No member of the commission shall have any direct or indirect interest, in his or her own name or in the name of any other person, association, trust, or corporation, in any action taken by the commission including issuance of bonds, execution of lease agreements, and distribution of funds.

- (3) If any of the officers of the commission whose signatures or facsimiles thereof appear on any bonds of the commission, or on any other instruments or documents pertaining to the functions of the commission, shall cease to be such officers before

delivery of the bonds, or before the effective date or occasion of such instruments or documents, the signatures, and facsimiles thereof, shall nevertheless be valid for all purposes the same as if the officers had remained in office until such delivery or effective date or occasion.

- (4) Officers, employees, and agents of the commission having custody of money shall at all times be bonded to the maximum amount reasonably anticipated to be held at any one (1) time; and each bond shall have good corporate surety, provided by a surety company authorized to do business in the Commonwealth, to be approved in each instance by the commission. Premiums for such surety shall be paid from the budgeted funds of the commission.
- (5) The commission shall at all times keep and maintain books of record and account reflecting accurately all its financial transactions. The commission shall be audited annually and shall submit a written report of its activities to *the Kentucky Department of Education and* the Governor. A copy of each report shall be filed with the Legislative Research Commission.
- (6) Moneys received by the commission as rentals under any lease, and from the sale of bonds are declared not to be funds of the Commonwealth, but shall be corporate funds of the commission to be held, administered, invested, and disbursed as trust funds under the terms, provisions, pledges, covenants, and agreements set forth in its leases and bond resolutions and bonds.
- (7) The commission and all of its transactions, activities, and proceedings in the authorization and issuance of its bonds, execution of leases, acceptance of conveyances of property, transaction of conveyances of property, and otherwise, shall be exempt from all provisions relating to custodianship by the Secretary of State of title documents, leases, abstracts of title, maps, and other records as provided in KRS 56.020 and 56.320. Conveyances of property to or by the commission shall not be deemed to be conveyances to or by the Commonwealth,

and title to any property acquired by the commission shall be held by the commission in its own name.

(8) The Finance and Administration Cabinet shall provide technical assistance to the commission in the issuance of bonds.

(9) The commission shall be attached for administrative purposes to the Kentucky Department of Education, and the department shall provide the necessary personnel to provide administrative services for the commission.

➔SECTION 2. A NEW SECTION OF KRS 157.611 to 157.665 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other statute to the contrary, the Kentucky School for the Blind and the Kentucky School for the Deaf shall be eligible to participate in the school construction funding program, the education technology funding program, and the emergency and targeted investment fund.

(2) Not later than October 15 of the year immediately preceding an even-numbered year regular session of the General Assembly, the Kentucky Board of Education shall submit a statement to the School Facilities Construction Commission certifying the amount of school facility construction needs for the Kentucky School for the Blind and the Kentucky School for the Deaf. Construction needs shall be those needs specified in the school facilities plan approved by the Kentucky Board of Education as of June 30 of the year preceding an even-numbered year regular session of the General Assembly.

(3) To participate in the education technology funding program, the Kentucky School for the Blind and the Kentucky School for the Deaf shall have an unmet technology need described in each school's technology plan approved by the Kentucky Board of Education. The commission shall promulgate an administrative regulation establishing the formula by which education technology funding for the Kentucky School for the Blind and the Kentucky

School for the Deaf shall be determined.

→Section 3. KRS 157.611 is amended to read as follows:

- (1) By establishing the School Facilities Construction Commission, the General Assembly expresses its commitment to help local districts, **the Kentucky School for the Blind, and the Kentucky School for the Deaf** meet the school construction needs and the education technology needs of the state in a manner which will insure an equitable distribution of funds based on unmet facilities need and the total implementation of the Kentucky Education Technology System.
- (2) The commission is empowered to act on behalf of school districts to issue bonds in the name of the commission and to enter into lease agreements with local boards of education to finance construction of new facilities **and the**~~[,]~~ major renovation of existing school facilities. The commission is also empowered to enter into agreements which may provide for a percentage discount, on a biennially renewable basis, of annual lease agreements due the commission for those districts which participate. The commission is also empowered to enter into lease agreements with the Department of Education to build state-owned facilities operated by the Department of Education, **including the Kentucky School for the Blind and the Kentucky School for the Deaf,** or to purchase or lease education technology equipment and related software identified in the technology master plan for those facilities or the Department of Education.
- (3) The commission shall assist local school boards, **the Kentucky School for the Blind, and the Kentucky School for the Deaf** meet their education technology needs by distributing state funds appropriated for this purpose and by assisting school boards to design efficient finance plans for the bonding, purchase, or lease of education technology equipment and related software identified in the technology master plan.
- (4) The commission shall administer **three (3)**~~[two (2)]~~ separate **funding** programs: the

school construction funding program, ~~and~~ the education technology funding program, ***and the emergency and targeted investment fund***. Funds appropriated for each program shall be maintained, administered, and audited separately.

- (5) Nothing in KRS 157.611 to 157.640 shall prohibit a school district from issuing bonds in accordance with KRS Chapter 162.

➔Section 4. KRS 157.615 is amended to read as follows:

As used in KRS 157.611 to **157.665**~~[157.640]~~, unless the context requires otherwise:

- (1) "Available local revenue" means the sum of the school building fund account balance; the bonding potential of the capital outlay and building funds; and the capital outlay fund account balance on June 30 of odd-numbered years. These accounts shall be as defined in the manual for Kentucky school financial accounting systems;
- (2) "Board of education" means the governing body of a county school district or an independent school district;
- (3) "Bonds" or "bonds of the commission" means bonds issued by the commission, or issued by a city, county, or other agency or instrumentality of the Board of Education, in accordance with KRS Chapter 162, payable as to principal and interest from rentals received from a board of education or from the department pursuant to a lease or from contributions from the commission, and constitute municipal bonds exempt from taxation under the Constitution of the Commonwealth;
- (4) "Department" means the State Department of Education;
- (5) "District technology plan" means the plan developed by the local district and the Department of Education and approved by the Kentucky Board of Education upon the recommendation of the Council for Education Technology;
- (6) "Equivalent tax rate" means the rate which results when the income from all taxes levied by the district for school purposes is divided by the total assessed value of

- property plus the assessment for motor vehicles certified by the Department of Revenue as provided by KRS 160.470;
- (7) "Kentucky Education Technology System" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education with the recommendation of the Council for Education Technology and approved by the Legislative Research Commission;
- (8) "Lease" or "lease instrument" means a written instrument for the leasing of one (1) or more school projects executed by the commission as lessor and a board of education as lessee, or executed by the commission as lessor and the department as lessee, as the case may be;
- (9) "Lease/purchase agreement" means a lease between the school district or the department and a vendor that includes an option to purchase the technology equipment or software at the end of the lease period;
- (10) "Percentage discount" means the degree to which the commission will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the commission on behalf of a local school district;
- (11) "Project" means a defined item of need to construct new facilities or to provide major renovation of existing facilities which is identified on the priority schedule of the approved school facilities plan;
- (12) "School facilities plan" means the plan developed pursuant to the survey specified by KRS 157.420 and by administrative regulations of the Kentucky Board of Education;
- (13) "Technology master plan" means the long-range plan for the implementation of the Kentucky Education Technology System as developed by the Council for Education Technology and approved by the Kentucky Board of Education and the Legislative Research Commission;
- (14) "Unmet facilities need" means the total cost of new construction and major

renovation needs as shown by the approved school facilities plan less any available local revenue;

- (15) "Unmet technology need" means the total cost of technology need as shown by the approved technology plan of the local district, *the Kentucky School for the Blind, or the Kentucky School for the Deaf;* ~~and~~
- (16) "Eligible district" means any local school district having an unmet facilities need, as defined in this section, in excess of one hundred thousand dollars (\$100,000) or a district qualifying for education technology funding; *and*~~;~~

(17) "Eligible school" means the Kentucky School for the Blind or the Kentucky School for the Deaf.

➔Section 5. KRS 157.618 is amended to read as follows:

- (1) The emergency and targeted investment fund is hereby created as a restricted fund in the State Treasury, to be administered by the School Facilities Construction Commission.
- (2) (a) Notwithstanding KRS 45.229 or any other provision of the Kentucky Revised Statutes, any appropriations to the School Facilities Construction Commission that have not been expended at the end of a fiscal year shall not lapse but shall be transferred to the emergency and targeted investment fund. The fund may also receive other appropriations from the General Assembly and reimbursements from local school districts.
- (b) Notwithstanding KRS 45.229, amounts remaining in the emergency and targeted investment fund at the end of a fiscal year shall not lapse but shall be carried forward to the next fiscal year, to be used for the purposes set forth in this section.
- (3) Notwithstanding KRS 157.620 and 157.622, the commission may use moneys in the fund to offer grants for the purposes of financing the construction and equipping of new facilities, or the major renovation of current facilities, if *the facilities of* a local school *district, the Kentucky School for the Blind, or the Kentucky School for the*

Deaf[district's facilities] are:

- (a) Destroyed or severely damaged by an emergency. For the purposes of this paragraph, "emergency" means a condition that arises from an accident, catastrophe, or other unforeseen occurrence such as a fire, storm, flood, or other event that involves unusual danger to the lives or property of area residents; or
 - (b) Destroyed or severely damaged through a criminal or negligent act;
 - ~~(c) Rendered structurally unsound, hazardous, or uninhabitable as determined by local authorities or the commissioner of education; or~~
 - ~~(d) Reasonably expected to be rendered uninhabitable within the course of two (2) years as determined by local authorities or the commissioner of education].~~
- (4) If a school district, *an eligible school, or the Commonwealth on behalf of an eligible school* receives assistance from the commission under this section and subsequently, as a result of litigation or insurance, receives funds for the original facility, the school district, *eligible school, or Commonwealth* shall reimburse the fund an amount equal to the amount received pursuant to this section. If the litigation or insurance receipts are less than the amount received under this section, the district, *eligible school, or Commonwealth* shall reimburse the fund an amount equal to the amount received as a result of litigation or insurance, less the district's, *eligible school's, or Commonwealth's* costs and legal fees in securing the judgment or payment.
- (5) The commission, in cooperation with the department, shall promulgate administrative regulations under KRS Chapter 13A establishing the process to apply for and receive funds from the emergency and targeted investment fund.
- (6) By October 1 of each year, the commission shall provide a report on the fund's activities to the Legislative Research Commission.

➔Section 6. KRS 157.620 is amended to read as follows:

- (1) *A local school district that participates*~~[To participate]~~ in the school construction funding program~~[, the district]~~ must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:
 - (a) Commit at least an equivalent tax rate of five cents (\$0.05) to debt service, new facilities, or major renovations of existing school facilities as defined by KRS 157.440. A district that levies the five cents (\$0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.
 - (b) On July 1 of odd-numbered years, the district board of education shall restrict all available local revenue, as defined by KRS 157.615, for school building construction, to be utilized in accordance with the priorities determined by the most current school facilities plan approved by the Kentucky Board of Education.
- (2) Interest earned on restricted funds required by this section shall become a part of the restricted funds.
- (3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.
- (4) Not later than October 15 of the year immediately preceding an even-numbered year regular session of the General Assembly, the Kentucky Board of Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:
 - (a) The amount of school facility construction needs in each district;

- (b) The amount of available local revenue in each district; and
 - (c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.
- (5) Construction needs shall be those needs specified in the school facilities plan approved by the Kentucky Board of Education as of June 30 of the year preceding an even-numbered year regular session of the General Assembly.

➔Section 7. KRS 157.622 is amended to read as follows:

The School Facilities Construction Commission shall be governed by the following procedures in providing assistance to school districts, *the Kentucky School for the Blind, and the Kentucky School for the Deaf* for construction purposes:

- (1) Upon receipt of the certified statements from the Kentucky Board of Education as required by KRS 157.620 *and Section 2 of this Act*, the commission shall compute the unmet needs of all eligible districts *and eligible schools* as defined by KRS 157.615;
- (2) Assistance to each eligible district *or eligible school* shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's *or eligible school's* unmet need will be funded;
- (3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 *and each eligible school* shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district *or eligible school*. The funds shall be applied to the projects listed on the most current facility plan approved by the Kentucky Board of Education, and the funds shall be applied to projects in the priority order listed on the plan. Exceptions to the priority order of projects may be approved by the School Facilities Construction Commission when it is documented by the local board of education and approved

- by the Kentucky Board of Education upon the recommendation of the chief state school officer that the school district's or eligible school's priority order of needs has changed. The exceptions shall not alter the amount of the offer of assistance;
- (4) The commission shall promulgate administrative regulations whereby an eligible district or eligible school which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's or eligible school's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed eight (8) years. Accumulation and retention of credit for a district is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year;
- (5) Except as provided in subsection (6) of this section, all unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts or eligible schools being those districts or eligible schools which contribute unused state allocations to the reallocation account. Any district or eligible school which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional funds from the reallocation account. Any funding received and utilized from the reallocation account by a district or eligible school shall equally reduce the credit as set forth in this section; and
- (6) Refinancing savings that have occurred since July 1, 1997, and subsequent savings to the commission generated over the life of a bond by the local district's refinancing of the bond shall be dedicated to the district's account by the commission. Any funds accumulated in this account shall be used toward the district's next priority, but shall not be deducted from the district's share of commission funds under subsection (3) of this section.

→Section 8. KRS 157.655 is amended to read as follows:

- (1) *A local public school district participating*~~[To participate]~~ in the education technology funding program~~[, a local public school district]~~ shall have an unmet technology need described in its local district technology plan and approved by the Kentucky Board of Education pursuant to its technology master plan, and shall match equally the amount of funds offered by the School Facilities Construction Commission for this purpose each biennium, except as provided in subsection (2) of this section. Technology approved for the Kentucky Education Technology System and included in the local district technology plan, which was acquired prior to April 3, 1992, and for which the district has an outstanding financial obligation, shall qualify for commission funding. This provision shall not apply to any purchases or contracts made between April 3, 1992, and the first offers of assistance recommended by the Council for Education Technology to the State Board for Elementary and Secondary Education.
- (2) For fiscal year 1992-93, funding shall be allotted to districts without an approved plan upon the recommendation of the Council for Education Technology to the State Board for Elementary and Secondary Education.
- (3) If a local board of education determines that for any reason the district's approved technology plan is grossly inconsistent with the administrative regulations governing the development of the plan, the local board may certify, by official action, the reason for the inconsistency and may request that the Department of Education reevaluate the technology plan of the district. After review of the data, the chief state school officer may require a reevaluation and the approval of a new technology plan certified prior to an official offer from the School Facilities Construction Commission. If the chief state school officer elects to recommend the new technology plan to the Kentucky Board of Education, the board shall notify the School Facilities Construction Commission of any change required in the offer of

assistance for the district.

→Section 9. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the Kentucky Board of Education. The following restrictions shall govern the expenditure of funds from the public school fund:

- (1) The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year.
- (2) Beginning with the 2004-2006 biennium, the Kentucky Board of Education shall not approve any working budget or salary schedule for local boards of education for any school year unless the one hundred eighty-five (185) day salary schedule for certified staff has been adjusted over the previous year's salary schedule by a percentage increase at least equal to the cost-of-living adjustment that is provided state government workers under the biennial budget. The base funding level in the program for support education excellence in Kentucky as defined in KRS 157.320 shall be increased by the statewide dollar value of the annual required cost-of-living percentage adjustment that shall be estimated on the sum of the previous year's statewide teachers' salaries.
- (3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year to be determined according to the number of staff employed by the district on September 15. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and

shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.

- (4) (a) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the commissioner of education in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the Kentucky Board of Education. These funds shall be used for the following capital outlay purposes:
1. For direct payment of construction costs;
 2. For debt service on voted and funding bonds;
 3. For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;
 4. For the retirement of any deficit resulting from overexpenditure for capital construction, if such deficit resulted from an emergency declared by the Kentucky Board of Education under KRS 160.550; and
 5. As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.
- (b) A district may submit a request to the commissioner of education to use funds from the per pupil capital outlay allotment to purchase land for a new school or to modify an existing school if the project is included on the district facility plan for completion within eight (8) years. The land shall not be included in the calculation of the school district's unmet need. The commissioner may grant or deny the district's request at his or her discretion.
- (c) A district which has experienced an increase in adjusted average daily attendance, as defined by administrative regulation, of twenty percent (20%) or more over a five (5) year period may submit a request to the commissioner

of education to use capital outlay funds for the operation of a new school for the first two (2) years following its opening. The commissioner may grant or deny the district's request at his or her discretion.

- (d) A local school district may submit a request to the commissioner of education to use capital outlay funds for maintenance expenditures or for the purchase of property insurance without forfeiting the district's participation in the School Facilities Construction Commission program. Maintenance requests may include other priorities that are not considered major renovations, such as repair, renovation, or system upgrades that are necessary to maintain the integrity of an existing school facility.
- (5) The district may contribute capital outlay funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, provided in KRS 45A.353, 56.774, and 58.600, shall be based on the following:
 - (a) The energy conservation measures shall include facility alteration;
 - (b) The energy conservation measures shall be identified in the district's approved facility plan;
 - (c) The current facility systems are consuming excess maintenance and operating costs;
 - (d) The savings generated by the energy conservation measures are guaranteed;
 - (e) The capital outlay funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and
 - (f) The equipment that is replaced shall have exceeded its useful life as determined by a life-cycle cost analysis.
- (6) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds

of that levy for the above-named purposes, the commissioner of education under administrative regulations of the Kentucky Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds, except when the current expenditures are approved by the commissioner of education under subsection (4)(b) or (c) of this section.

- (7) If a survey shows that a school district has no capital outlay needs as shown in subsection (4)(a)1., 2., 3., and 4. of this section, upon approval of the commissioner of education, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.
- (8) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.
 - (a) "Permanent center" means a center which meets the program standards approved by the Kentucky Board of Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.
 - (b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.

- (c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.
- (9) Beginning in fiscal year 2011-2012, the Kentucky Department of Education shall standardize the process for evaluating the overall quality and condition of all school buildings across the state. **Beginning in fiscal year 2017-2018, the Kentucky School for the Blind and the Kentucky School for the Deaf shall be included in the evaluation process.** The evaluation process shall:
- (a) Result in consistent categorization of buildings for local planning purposes and for the distribution of state general fund moneys designated for capital construction;
 - (b) Be based on measurable, objective criteria;
 - (c) Include numerical scoring with weights to recognize building components and characteristics that address:
 - 1. Life safety issues;
 - 2. Compliance with state and federal codes;
 - 3. Compliance with requirements under the Americans with Disabilities Act;
 - 4. Community spaces;
 - 5. Instructional areas;
 - 6. Mechanical, electrical, plumbing, and other technology systems;
 - 7. Site and exterior building conditions;
 - 8. Age of the buildings;
 - 9. Feasibility of building additions or major renovations;

10. The districts' facility capacities;
 11. Current use of temporary facilities; and
 12. Projected enrollment growth; and
- (d) Use of a third-party evaluator that utilizes an already established software-based system to perform the first, base-line evaluation.
- (10) The Kentucky Board of Education shall promulgate an administrative regulation upon recommendation of the Kentucky Department of Education and the School Facilities Construction Commission to implement subsection (9) of this section.
- (11) If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.
- (12) Notwithstanding the provisions of subsections (4) and (6) of this section, a local district that has requested a mid-year adjustment in the support education excellence in Kentucky funding under KRS 157.360(16) may request permission from the commissioner of education to use capital outlay funds for the purchase of school buses or to use the capital outlay funds for increased operational expenses for the first three (3) years following the increased growth in the district without forfeiture of the district's participation in the School Facilities Construction Commission Program. The commissioner may grant or deny the district's request.

➔Section 10. Whereas it is the duty of the General Assembly to provide for the education of Kentucky's children, and the provisions of this Act help ensure an efficient and appropriate use of taxpayer's resources for Kentucky's elementary and secondary school facilities, an emergency is declared to exist and this Act takes effect on July 1,

2016.