

1 AN ACT relating to English language learners.

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

3 ➔Section 1. KRS 157.360 is amended to read as follows:

- 4 (1) (a) In determining the cost of the program to support education excellence in
5 Kentucky, the statewide guaranteed base funding level, as defined in KRS
6 157.320, shall be computed by dividing the amount appropriated for this
7 purpose by the prior year's statewide average daily attendance.
- 8 (b) When determining the biennial appropriations for the program, the average
9 daily attendance for each fiscal year shall include an estimate of the number
10 of students graduating early under the provisions of KRS 158.142.
- 11 (2) Each district shall receive an amount equal to the base funding level for each pupil
12 in average daily attendance in the district in the previous year, except a district shall
13 receive an amount equal to one-half (1/2) of the state portion of the average
14 statewide per pupil guaranteed base funding level for each student who graduated
15 early under the provisions of KRS 158.142. Each district's base funding level shall
16 be adjusted by the following factors:
- 17 (a) The number of at-risk students in the district. At-risk students shall be
18 identified as those approved for the free lunch program under state and federal
19 guidelines. The number of at-risk students shall be multiplied by a factor to be
20 established by the General Assembly. Funds generated under this paragraph
21 may be used to pay for:
- 22 1. Alternative programs for students who are at risk of dropping out of
23 school before achieving a diploma; and
 - 24 2. A hazardous duty pay supplement as determined by the local board of
25 education to the teachers who work in alternative programs with
26 students who are violent or assaultive;
- 27 (b) The number and types of exceptional children in the district as defined by

1 KRS 157.200. Specific weights for each category of exceptionality shall be
2 used in the calculation of the add-on factor for exceptional children;~~and~~

3 (c) Beginning with the 2026-2027 school year, the number of children
4 identified as English language learners in the district. The number of
5 English language learners shall be multiplied by a factor of twenty-four
6 one-hundredths (0.24); and

7 (d) Transportation costs. The per-pupil cost of transportation shall be calculated
8 as provided by KRS 157.370. Districts which contract to furnish
9 transportation to students attending nonpublic schools may adopt any payment
10 formula which ensures that no public school funds are used for the
11 transportation of nonpublic students.

12 (3) Beginning with the 2015-2016 school year and each year thereafter, the General
13 Assembly shall annually allocate funds equal to one-half (1/2) of the state portion
14 of the average statewide per pupil guaranteed base funding level for each student
15 who graduated early under the provisions of KRS 158.142 the previous school year
16 to the Kentucky Higher Education Assistance Authority for deposit in the early
17 graduation scholarship trust fund.

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

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

- 26 1. Twenty-four (24) in primary grades (kindergarten through third grade);
- 27 2. Twenty-eight (28) in grade four (4);

- 1 3. Twenty-nine (29) in grades five (5) and six (6);
- 2 4. Thirty-one (31) in grades seven (7) to twelve (12).
- 3 (b) Except for those schools which have implemented school-based decision
- 4 making, class size loads for middle and secondary school classroom teachers
- 5 shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.
- 6 (c) The commissioner of education, upon approval of the Kentucky Board of
- 7 Education, shall adopt administrative regulations for enforcing this provision.
- 8 These administrative regulations shall include procedures for a superintendent
- 9 to request an exemption from the Kentucky Board of Education when unusual
- 10 circumstances warrant an increased class size for an individual class. A
- 11 request for an exemption shall include specific reasons for the increased class
- 12 size with a plan for reducing the class size prior to the beginning of the next
- 13 school year. A district shall not receive in any one (1) year exemptions for
- 14 more classes than enroll twenty percent (20%) of the pupils in the primary
- 15 grades and grades four (4) through eight (8).
- 16 (d) In all schools the commissioner of education shall enforce the special
- 17 education maximum class sizes set by administrative regulations adopted by
- 18 the Kentucky Board of Education. A superintendent may request an
- 19 exemption pursuant to paragraph (c) of this subsection. A local school council
- 20 may request a waiver pursuant to KRS 156.160(2). An exemption or waiver
- 21 shall not be granted if the increased class size will impede any exceptional
- 22 child from achieving his or her individual education program in the least
- 23 restrictive environment.
- 24 (6) In grades four (4) through six (6) with combined grades, the maximum class size
- 25 shall be the average daily attendance upon which funding is appropriated for the
- 26 lowest assigned grade in the class. There shall be no exceptions to the maximum
- 27 class size for combined classes. In combined classes other than the primary grades,

1 no ungraded students shall be placed in a combined class with graded students. In
2 addition, there shall be no more than two (2) consecutive grade levels combined in
3 any one (1) class in grades four (4) through six (6). However, this shall not apply to
4 schools which have implemented school-based decision making.

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

12 (8) Pupils attending a center for child learning and study established under an
13 agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating
14 average daily attendance, be considered as in attendance in the school district in
15 which the child legally resides and which is party to the agreement. For purposes of
16 subsection (1) of this section, teachers who are actually employees of the joint or
17 cooperative action shall be considered as employees of each school district which is
18 a party to the agreement.

19 (9) Program funding shall be increased when the average daily attendance in any
20 district for the first two (2) months of the current school year is greater than the
21 average daily attendance of the district for the first two (2) months of the previous
22 school year. The program funds allotted the district shall be increased by the
23 percent of increase. The average daily attendance in kindergarten is the
24 kindergarten full-time equivalent pupils in average daily attendance.

25 (10) If the average daily attendance for the current school year in any district decreases
26 by ten percent (10%) or more than the average daily attendance for the previous
27 school year, the average daily attendance for purposes of calculating program

1 funding for the next school year shall be increased by an amount equal to two-thirds
2 (2/3) of the decrease in average daily attendance. If the average daily attendance
3 remains the same or decreases in the succeeding school year, the average daily
4 attendance for purposes of calculating program funding for the following school
5 year shall be increased by an amount equal to one-third (1/3) of the decrease for the
6 first year of the decline.

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

12 (12) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12)
13 months per year. Vocational agriculture teachers shall be responsible for the
14 following program of instruction during the time period beyond the regular
15 school term established by the local board of education: supervision and
16 instruction of students in agriculture experience programs; group and
17 individual instruction of farmers and agribusinessmen; supervision of student
18 members of agricultural organizations who are involved in leadership training
19 or other activity required by state or federal law; or any program of vocational
20 agriculture established by the Department of Education. During extended
21 employment, no vocational agriculture teacher shall receive salary on a day
22 that the teacher is scheduled to attend an institution of higher education class
23 which could be credited toward meeting any certification requirement.

24 (b) Each teacher of agriculture employed shall submit an annual plan for summer
25 program to the local school superintendent for approval. The summer plan
26 shall include a list of tasks to be performed, purposes for each task, and time
27 to be spent on each task. Approval by the local school superintendent shall be

1 in compliance with the guidelines developed by the Department of Education.
2 The supervision and accountability of teachers of vocational agriculture's
3 summer programs shall be the responsibility of the local school
4 superintendent. The local school superintendent shall submit to the
5 commissioner of education a completed report of summer tasks for each
6 vocational agriculture teacher. Twenty percent (20%) of the approved
7 vocational agriculture programs shall be audited annually by the State
8 Department of Education to determine that the summer plan has been properly
9 executed.

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

16 (b) Pursuant to administrative regulations of the Kentucky Board of Education,
17 local school districts shall be reimbursed for home and hospital instruction for
18 pupils unable to attend regular school sessions because of short-term health
19 impairments. A reimbursement formula shall be established by administrative
20 regulations to include such factors as a reasonable per hour, per child
21 allotment for teacher instructional time, with a maximum number of funded
22 hours per week, a reasonable allotment for teaching supplies and equipment,
23 and a reasonable allotment for travel expenses to and from instructional
24 assignments, but the formula shall not include an allotment for capital outlay.
25 Attendance shall be calculated pursuant to KRS 157.270 and shall be reported
26 annually on forms provided by the Department of Education.

27 (14) Except for those schools which have implemented school-based decision making

1 and the school council has voted to waive this subsection, kindergarten aides shall
2 be provided for each twenty-four (24) full-time equivalent kindergarten students
3 enrolled.

4 (15) Effective July 1, 2001, there shall be no deduction applied against the base funding
5 level for any pupil in average daily attendance who spends a portion of his or her
6 school day in a program at a state-operated career and technical education or
7 vocational facility.

8 (16) During a fiscal year, a school district may request that the Department of Education
9 recalculate its funds allocated under this section if the current year average daily
10 attendance for the twenty (20) day school month as defined in KRS 158.060(1) that
11 contains the most days within the calendar month of January exceeds the prior year
12 adjusted average daily attendance plus growth by at least one percent (1%). Any
13 adjustments in the allotments approved under this subsection shall be proportional
14 to the remaining days in the school year and subject to available funds under the
15 program to support education excellence in Kentucky.

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

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

1 ➔Section 2. KRS 160.1596 is amended to read as follows:

- 2 (1) (a) For purposes of this section, a member of the board of directors of a public
3 charter school shall be considered an officer under KRS 61.040 and shall,
4 within sixty (60) days of final approval of an application, take an oath of
5 office as required under KRS 62.010.
- 6 (b) Within seventy-five (75) days of the final approval of an application, the
7 board of directors and the authorizer shall enter into a binding charter contract
8 that establishes the academic and operational performance expectations and
9 measures by which the public charter school will be evaluated.
- 10 (c) The executed charter contract shall become the final authorization for the
11 public charter school. The charter contract shall include:
- 12 1. The term of the contract;
 - 13 2. The agreements relating to each item required under KRS 160.1592(3)
14 and 160.1593(3), as modified or supplemented during the approval
15 process;
 - 16 3. The rights and duties of each party;
 - 17 4. The administrative relationship between the authorizer and the public
18 charter school;
 - 19 5. The allocation of state, local, and federal funds, and the schedule to
20 disburse funds to the public charter school by the authorizer;
 - 21 6. The process the authorizer will use to provide ongoing oversight,
22 including a process to conduct annual site visits;
 - 23 7. The specific commitments of the public charter school authorizer
24 relating to its obligations to oversee, monitor the progress of, and
25 supervise the public charter school;
 - 26 8. The process and criteria the authorizer will use to annually monitor and
27 evaluate the overall academic, operating, and fiscal conditions of the

- 1 public charter school, including the process the authorizer will use to
2 oversee the correction of any deficiencies found in the annual review;
- 3 9. The process for revision or amendment to the terms of the charter
4 contract agreed to by the authorizer and the board of directors of the
5 public charter school;
- 6 10. The process agreed to by the authorizer and the board of directors of the
7 public charter school that identifies how disputes between the authorizer
8 and the board will be handled; and
- 9 11. Any other terms and conditions agreed to by the authorizer and the
10 board of directors, including pre-opening conditions. Reasonable
11 conditions shall not include enrollment caps or operational requirements
12 that place undue constraints on a public charter school or are
13 contradictory to the provisions of KRS 160.1590 to 160.1599 and
14 161.141. Such conditions, even when incorporated in a charter contract,
15 shall be considered unilaterally imposed conditions.
- 16 (d) 1. The performance provisions within a charter contract shall be based on a
17 performance framework that sets forth the academic and operational
18 performance indicators, measures, and metrics to be used by the
19 authorizer to evaluate each public charter school. The performance
20 framework shall include at a minimum indicators, measures, and metrics
21 for:
- 22 a. Student academic proficiency;
- 23 b. Student academic growth;
- 24 c. Achievement gaps in both student proficiency and student growth
25 for student subgroups, including race, sex, socioeconomic status,
26 and areas of exceptionality;
- 27 d. Student attendance;

- 1 e. Student suspensions;
- 2 f. Student withdrawals;
- 3 g. Student exits;
- 4 h. Recurrent enrollment from year to year;
- 5 i. College or career readiness at the end of grade twelve (12);
- 6 j. Financial performance and sustainability; and
- 7 k. Board of directors' performance and stewardship, including
- 8 compliance with all applicable statutes, administrative regulations,
- 9 and terms of the charter contract.
- 10 2. The performance framework shall allow the inclusion of additional
- 11 rigorous, valid, and reliable indicators proposed by a public charter
- 12 school to augment external evaluations of its performance. The proposed
- 13 indicators shall be consistent with the purposes of KRS 160.1590 to
- 14 160.1599 and 161.141 and shall be negotiated with the authorizer.
- 15 3. The performance framework shall require the disaggregation of student
- 16 performance data by subgroups, including race, sex, socioeconomic
- 17 status, and areas of exceptionality.
- 18 4. The authorizer shall be responsible for collecting, analyzing, and
- 19 reporting to the state board all state-required assessment and
- 20 achievement data for each public charter school it oversees.
- 21 (e) Annual student achievement performance targets shall be set, in accordance
- 22 with the state accountability system, by each public charter school in
- 23 conjunction with its authorizer, and those measures shall be designed to help
- 24 each school meet applicable federal, state, and authorizer goals.
- 25 (f) The charter contract shall be signed by the chair of the governing board of the
- 26 authorizer and the chair of the board of directors of the public charter school.
- 27 An approved charter application shall serve as a charter contract for the public

1 charter school.

2 (g) No public charter school may commence operations without a charter contract
3 executed according to this section and approved in an open meeting of the
4 governing board of the authorizer.

5 (2) Within five (5) days after entering into a charter contract, a copy of the executed
6 contract shall be submitted by the authorizer to the commissioner of education.

7 (3) For the purposes of local and state funding, a public charter school shall serve as a
8 school of the district of location.

9 (4) For the purposes of federal funding, a public charter school shall serve as a local
10 education agency.

11 (5) All students enrolled in a public charter school shall be included in the average
12 daily attendance calculation under KRS 157.360 and the aggregate and average
13 daily attendance of transported pupils calculation under KRS 157.370 of the district
14 of location in the same manner as any other public schools in the district and shall
15 be reported by the public charter schools to the school district and state Department
16 of Education for purposes of calculating the state and local share of funding for
17 each public charter school.

18 (6) Notwithstanding the formula for allocating district funds under KRS 160.345(8)
19 and any other statute governing a district's funding of schools, unless an authorizing
20 district agrees to provide a larger sum of funding in the charter contract, after local
21 capital outlay funds that are restricted in use pursuant to KRS 157.420(4) and funds
22 under KRS 157.440(1)(b) and 157.621 necessary to meet debt service obligations
23 on bonds or other financing mechanisms for new construction and renovation
24 projects for school facilities are excluded, and before any other funds are budgeted
25 for district use, a district shall transfer to each of the public charter schools located
26 within the district:

27 (a) The amount that is proportional to the public charter school's enrollment or

1 average daily attendance in comparison with the overall district qualifying
2 numbers for:

- 3 1. Funds that are related to students' attendance and enrollment and
4 allocated to the district of location pursuant to KRS 157.360;
- 5 2. Any add-on or funding factors provided for in the state budget;
- 6 3. Any add-on or funding factors provided for by the Kentucky
7 Department of Education; and
- 8 4. Funds pursuant to KRS 157.360(2)(a) and (b) and (13)(a).

9 For each funding source identified in this paragraph, the transfer amount shall
10 be based on the public charter school's qualifying student enrollment or
11 average daily attendance, depending on the method used in the funding
12 source's calculation;

13 (b) On a proportionate per pupil basis:

- 14 1. Education funds allocated to the school district pursuant to KRS
15 157.440(1)(a) and (2)(a), or pursuant to any applicable federal statute;
16 and
- 17 2. All taxes and payments in lieu of taxes transferred to the district of
18 location or levied and collected by the district of location; and

19 (c) On a proportionate per pupil transported basis, transportation funds calculated
20 pursuant to KRS 157.360(2)(d)[~~(e)~~] and 157.370 and distributed to the district
21 of location, unless the school district provides transportation to students
22 attending the public charter school under written terms agreed upon by the
23 district and the public charter school in either the charter contract or, if the
24 district is not the public charter school's authorizer, a separate agreement.

25 (7) (a) If transportation funds are transferred under this section to a public charter
26 school, then the public charter school receiving those funds shall provide
27 transportation services to the enrolled students residing within the district of

1 location.

2 (b) If funds designated for providing additional services to specific students are
3 transferred under this section, then the public charter school receiving those
4 funds shall provide those services in the same manner as the district of
5 location.

6 (c) If transportation services are not provided by the public charter school and no
7 written agreement to provide transportation services with the district of
8 location exists, then no transportation funds shall be transferred and the
9 district of location shall not be responsible for providing transportation to the
10 public charter school's students.

11 (8) Notwithstanding the identification of funds to be transferred in this section, a
12 collaborative among local school boards authorizing a public charter school may
13 negotiate among the local boards and a charter applicant to identify the amount of
14 funds to be transferred to the public charter school. The agreement shall be detailed
15 in the charter contract.

16 (9) (a) For the calculation of amounts under subsections (6) and (7) of this section
17 during the first school year of operation of a public charter school in a school
18 district, beginning with the start of instruction:

19 1. The public charter school's average daily attendance shall be calculated
20 based on a projection of the public charter school's enrollment and the
21 district's overall average daily attendance;

22 2. The public charter school's aggregate daily attendance of students
23 transported shall be calculated based on a projection of the public
24 charter school's enrollment and transportation plan and the district's
25 overall aggregate daily attendance of students transported; and

26 3. The amounts attributable to each individual student's attendance at the
27 public charter school shall be calculated based on a projection of the

1 public charter school's enrollment and demographics and the district's
2 overall enrollment and demographics.

3 (b) The calculations shall be adjusted in January of the first school year of
4 operation to reflect the first semester's actual data. Subsequent years of
5 operation shall be calculated using actual data from the prior school year.

6 (10) (a) Funds identified for transfer under this section shall be transferred by a district
7 of location to each of the public charter schools located within the district.
8 However, up to three percent (3%) of the funds identified under this section
9 for transfer to a public charter school may be retained by an authorizer as an
10 authorizer fee.

11 (b) If the authorizer of a public charter school does not include the local board of
12 education of the district of location, then the district of location shall transfer
13 the authorizer fee to the public charter school's authorizer.

14 (c) If the Kentucky Board of Education requires the authorization of a public
15 charter school on appeal from an authorizer, the board shall receive twenty-
16 five percent (25%) of the authorizing fee for the duration of joint oversight
17 required by KRS 160.1595.

18 (11) Funds identified for transfer by a district of location to a public charter school under
19 this section shall be transferred throughout the school year according to a schedule
20 determined by the state board. The scheduled dates shall be within thirty (30) days
21 of the dates of state disbursement of funds to school districts. Failure to transfer
22 required funds shall, for every five (5) days late, result in a fine to the violator of
23 not less than five percent (5%) of the total funds per funding period to be
24 transferred. Fines imposed shall be transferred to the public charter school affected
25 by the delay.

26 (12) A public charter school shall be eligible for federal and state competitive grants and
27 shall not be excluded from an opportunity to apply or participate so long as the

1 public charter school meets the criteria established for the respective grants. Each
2 public charter school that receives grant aid shall comply with all requirements to
3 receive such aid.

4 (13) A public charter school shall receive a proportionate per pupil share of any state
5 moneys not otherwise identified in this section that is received by the school district
6 of location. The public charter school shall also receive, according to federal law,
7 moneys generated under federal categorical aid programs for students that are
8 eligible for the aid and attending the public charter school. Each public charter
9 school that receives such aid shall comply with all requirements to receive such aid.

10 (14) The commissioner of education shall apply for all federal funding that supports
11 charter school initiatives for which a state must be the applicant and shall cooperate
12 with any public charter school in its efforts to seek federal funding.

13 (15) If a public charter school closes for any reason, the assets of the school shall be
14 distributed first to satisfy outstanding payroll obligations for employees of the
15 school, then to the creditors of the school, then to the district of location or
16 authorizing districts if authorized by a collaborative of local boards of education. If
17 the assets are insufficient to satisfy outstanding obligations, the authorizer shall
18 petition to Circuit Court of the county in which the public charter school is located
19 to prioritize the distribution of assets.

20 (16) The state board shall promulgate administrative regulations to:

21 (a) Establish the process to be used to evaluate the performance of a charter
22 school authorizer, based upon the requirements of KRS 160.1590 to 160.1599
23 and 161.141, and the actions to be taken in response to failures in
24 performance; and

25 (b) Govern the calculation and distribution of funds due to public charter schools
26 from school districts, the schedule of distribution of funds, and the imposition
27 of fines for late distribution of funds.

- 1 (17) By August 31, 2023, and annually thereafter, each public charter school authorizer
2 shall submit to the commissioner of education, the secretary of the Education and
3 Labor Cabinet, and the Interim Joint Committee on Education a report to include:
- 4 (a) The names of each public charter school operating under contract with the
5 authorizer during the previous academic year that:
- 6 1. Closed during or after the academic year; or
7 2. Had the contract nonrenewed or revoked;
- 8 (b) The names of each public charter school operating under contract with the
9 authorizer during the previous academic year that have not yet begun to
10 operate;
- 11 (c) The number of applications received, the number reviewed, and the number
12 approved;
- 13 (d) A summary of the academic and financial performance of each public charter
14 school operated under contract with the authorizer during the previous
15 academic year; and
- 16 (e) The authorizing duties and functions performed by the authorizer during the
17 previous academic year.