

1 AN ACT relating to educational opportunities and making an appropriation  
2 therefor.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO  
5 READ AS FOLLOWS:

6 *As used in Sections 1 to 9 of this Act:*

- 7 *(1) "Charter applicant" or "applicant" means an eligible person or persons,*  
8 *organization, or entity that seeks approval from a charter school authorizer to*  
9 *establish a public charter school;*
- 10 *(2) "Charter application" or "application" means a proposal from an applicant to*  
11 *an authorizer to enter into a charter contract whereby the proposed school*  
12 *obtains public charter school status;*
- 13 *(3) "Charter authorizer" or "authorizer" means an entity or body established to*  
14 *review and approve or deny charter applications, approve public charter schools,*  
15 *enter into charter contracts with applicants, oversee public charter schools, and*  
16 *renew, not renew, or revoke charter contracts. Authorizers include:*
- 17 *(a) The office of a mayor located in a county with a consolidated local*  
18 *government;*
- 19 *(b) The office of a mayor located in a county with an urban-county*  
20 *government;*
- 21 *(c) A local county or independent school district;*
- 22 *(d) The board of trustees of a four (4) year public, or nonpublic nonprofit,*  
23 *postsecondary education institution containing an accredited school of*  
24 *education who may authorize only public charter schools not sponsored by*  
25 *the institution;*
- 26 *(e) The Kentucky Council on Postsecondary Education; and*
- 27 *(f) The State Board of Education with chartering authority limited to:*

- 1           1. Receiving charter applications on appeal and authorizing charter  
2           schools from such applications; and
- 3           2. Virtual public charter schools;
- 4   (4) "Charter contract" or "contract" means a fixed-term, renewable contract  
5           between a public charter school and an authorizer that specifies the roles,  
6           powers, responsibilities, and performance expectations for each party to the  
7           contract. A charter contract may consist of one (1) or more public charter  
8           schools, to the extent approved by the authorizer;
- 9   (5) "Charter school governing board" or "governing board" means the independent  
10           board of a public charter school that is party to the charter contract with the  
11           authorizer and whose members have been elected or selected pursuant to the  
12           school's application;
- 13   (6) "Conversion public charter school" means a public charter school that existed as  
14           a noncharter public school prior to becoming a public charter school;
- 15   (7) "Education service provider" means an education management organization,  
16           charter management organization, school design provider, or any other partner  
17           entity with which a public charter school intends to contract for educational  
18           design, implementation, or comprehensive management;
- 19   (8) "Local school board" means a school board exercising management and control  
20           of a local school district;
- 21   (9) "Noncharter public school" means a public school that is under the direct  
22           management, governance, and control of a local school board;
- 23   (10) "Parent" means a parent, guardian, or other person or entity having legal  
24           custody of a child;
- 25   (11) "Public charter school" means a public school that has autonomy over decisions,  
26           including but not limited to matters concerning finance, personnel, scheduling,  
27           curriculum, and instruction and operates under the provisions of subsection (2)

1 of Section 3 of this Act;

2 (12) "School district" means a county school district or independent school district as  
3 identified in KRS 160.010 and 160.020;

4 (13) "Start-up public charter school" means a public charter school that did not exist  
5 as a noncharter public school prior to becoming a public charter school;

6 (14) "State Board of Education" or "state board" means the Kentucky Board of  
7 Education;

8 (15) "Student" means any child who is eligible for attendance in a public school in  
9 the state; and

10 (16) "Virtual public charter school" means a public charter school that offers  
11 educational services primarily or completely through an online program and  
12 whose sole authorizer is the State Board of Education.

13 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO  
14 READ AS FOLLOWS:

15 The General Assembly hereby finds and declares that:

16 (1) The demand exists for high-quality public school options in the Commonwealth;

17 (2) A public charter school shall provide:

18 a. Students with high-quality public school options while advancing overall  
19 academic excellence and helping to close achievement gaps; and

20 b. Parents flexibility to choose among diverse educational opportunities within  
21 the public school system;

22 (3) National research and accumulated experience have documented that quality  
23 public charter schools best fulfill their potential when they have the resources,  
24 autonomy, and accountability they need to succeed; and

25 (4) The provisions established in Sections 1 to 9, 10, 11, 12, 13, 14, 15, and 16 of this  
26 Act will lead public education in the Commonwealth to meet Twenty-first Century  
27 educational needs.

1           ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO  
2 READ AS FOLLOWS:

3 (1) (a) A public charter school shall be exempt from all state statutes and  
4 administrative regulations applicable to a local school board, school district,  
5 or school, except the public charter school shall adhere to the same health,  
6 safety, civil rights, and disability rights requirements as are applied to all  
7 public schools.

8 (b) A public charter school may elect to comply with any one (1) or more  
9 provisions of any state statute or administrative regulation.

10 (2) A public charter school shall:

11 (a) Be a nonprofit education organization;

12 (b) Be governed by a governing board;

13 (c) Be established and operate under the terms of a charter contract between  
14 the school's governing board and its authorizer;

15 (d) Have all the powers necessary for carrying out the terms of its charter  
16 contract, including the power to:

17 1. Receive and disburse funds for school purposes;

18 2. Secure appropriate insurance and enter into contracts and leases;

19 3. Contract with an education service provider, so long as the governing  
20 board of the public charter school retains oversight and authority over  
21 the school;

22 4. Incur debt in reasonable anticipation of the receipt of public or private  
23 funds;

24 5. Pledge, assign, or encumber its assets to be used as collateral for loans  
25 or extensions of credit;

26 6. Solicit and accept any gifts or grants for school purposes, subject to  
27 applicable laws and the terms of its charter contract;

- 1           7. Acquire real property for use as its facility or facilities, from public or  
2           private sources; and
- 3           8. Employ or contract with other entities for the provision of teaching,  
4           professional, and support staff as needed;
- 5           (e) Admit students on the basis of a lottery if more students apply for admission  
6           to any specific grade or program than can be accommodated;
- 7           (f) Provide transportation for students residing within the boundary of the  
8           local school district in which the public charter school is located;
- 9           (g) Provide a program of education that includes any grade or grades from  
10           kindergarten through grade twelve (12);
- 11           (h) Operate in pursuit of a specific set of educational objectives as defined in its  
12           charter contract; and
- 13           (i) Operate under the oversight of its authorizer in accordance with its charter  
14           contract and application.
- 15       (3) (a) A majority of the members of the governing board shall be parents of  
16       students who are enrolled or will be enrolled in the public charter school  
17       during the time of the member's service on the board;
- 18       (b) Teachers and administrators employed in the public charter school shall  
19       constitute no more than one-third (1/3) of the members of the governing  
20       board;
- 21       (c) A governing board may hold one (1) or more charter contracts; and
- 22       (d) Each public charter school under contract with a governing board shall be  
23       separate and distinct from any other public charter school under contract  
24       with the governing board.
- 25       (4) (a) A school district shall provide or publicize to parents and the general public  
26       information about public charter schools authorized by the school district  
27       as an enrollment option within the district to the same extent and through

1 *the same means that the school district provides and publicizes information*  
2 *about noncharter public schools in the district.*

3 *(b) A local district shall not require any student enrolled in the local district to*  
4 *attend a public charter school.*

5 *(5) (a) A public charter school shall be open to any student who is eligible for*  
6 *attendance in a noncharter public school and whose parent chooses to send*  
7 *his or her children to the school.*

8 *(b) A public charter school shall not limit admission based on ethnicity,*  
9 *national origin, religion, gender, income level, disabling condition,*  
10 *proficiency in the English language, academic ability, or athletic ability.*

11 *(c) A public charter school may limit admission to students within a given age*  
12 *group or grade level and may be organized around a special emphasis,*  
13 *theme, or concept as stated in the school's application.*

14 *(6) (a) The number of students a public charter school may enroll shall be*  
15 *determined by the governing board of the school following consideration of*  
16 *the school's ability to:*

17 *1. Facilitate the academic success of its students;*

18 *2. Achieve the objectives specified in the charter contract; and*

19 *3. Ensure that the student enrollment does not exceed the capacity of the*  
20 *facility or site.*

21 *(b) The authorizer of a public charter school shall not restrict the number of*  
22 *students the school may enroll, but shall annually hear amendments to a*  
23 *charter contract concerning enrollments.*

24 *(7) (a) A public charter school shall enroll all students who wish to attend the*  
25 *school unless the number of students exceeds the capacity of a program,*  
26 *class, grade level, or building.*

27 *(b) Enrollment preference for a public charter school shall be given to students*

1 who reside within the school district boundary in which the charter school  
2 is located.

3 (c) Enrollment preference for a conversion public charter school shall be given  
4 to students who attended the school in the previous school year. If the  
5 number of students enrolled does not exceed the capacity of the school,  
6 secondary preference shall be given to students who reside within the school  
7 district boundary in which the charter school is located.

8 (d) Enrollment preference for public charter schools shall be given to students  
9 enrolled in the public charter school the previous year and to siblings of  
10 students already enrolled in the school. An enrollment preference for  
11 returning students excludes those students from entering into a lottery, as  
12 identified in paragraph (g) of this subsection.

13 (e) Enrollment preference may be given to the children of the public charter  
14 school's governing board and full-time employees of the school, so long as  
15 they constitute no more than ten percent (10%) of the total student  
16 population.

17 (f) A public charter school authorized by a board of trustees of a four (4) year  
18 public, or nonpublic nonprofit, postsecondary education institution  
19 containing an accredited school of education may request through its  
20 application a waiver from any requirement that enrollment preference be  
21 given to students residing within the school district boundary in which the  
22 charter school is located.

23 (g) If capacity is insufficient to enroll all students who wish to attend any  
24 specific grade level or program at the school, the school shall select students  
25 through a lottery.

26 (8) (a) Nothing in this section shall prohibit the formation of a public charter  
27 school whose mission is focused on serving students with disabilities,

1 students of the same gender, students who pose such severe disciplinary  
2 problems that they warrant a specific educational program, or students who  
3 are at risk of academic failure.

4 (b) If capacity is insufficient to enroll all students who wish to attend a public  
5 charter school formed under this subsection, the school shall select students  
6 through a lottery.

7 (9) (a) 1. A public charter school shall be eligible to participate in state-  
8 sponsored or district-sponsored extracurricular activities, including  
9 but not limited to interscholastic athletics, academic programs,  
10 competitions, awards, scholarships, and recognition programs for  
11 students, educators, administrators, and schools to the same extent as  
12 noncharter schools. Participants shall comply with eligibility  
13 requirements of students enrolled in noncharter schools.

14 2. A public charter school has no obligation to provide extracurricular  
15 activities or access to facilities for students enrolled in the public  
16 charter school.

17 3. If a public charter school sponsors extracurricular activities, students  
18 enrolled in the public charter school shall be considered eligible to  
19 participate in interscholastic competitions by the Kentucky Board of  
20 Education or the agency designated by the state board to manage  
21 interscholastic athletics, if other eligibility requirements are met.

22 (b) 1. A student enrolled in a public charter school that sponsors an  
23 extracurricular activity shall be ineligible to participate in that activity  
24 at any other school.

25 2. A student enrolled in a public charter school that does not sponsor an  
26 extracurricular activity shall be eligible to participate in the  
27 extracurricular activity at:



- 1                    a. The school within whose attendance area the student's custodial  
 2                    parent or legal guardian resides; or  
 3                    b. The noncharter public school from which the student withdrew  
 4                    for purposes of attending a public charter school.
- 5                    3. If selection to participate in an extracurricular activity identified at a  
 6                    noncharter public school is made on a competitive basis, a public  
 7                    charter school student eligible under this paragraph shall be eligible  
 8                    to try out for and participate in the activity.
- 9                    4. A public charter school student shall pay the same fees as other  
 10                    students to participate in an extracurricular activity.
- 11                    5. A public charter school student shall be eligible for fee waivers in the  
 12                    same manner as other students.
- 13                    6. A school district or noncharter public school shall not impose  
 14                    additional requirements on a public charter school student to  
 15                    participate in extracurricular activities that are not imposed on full-  
 16                    time students at the noncharter public school.

17 (10) If a student who was previously enrolled in a public charter school enrolls in  
 18 another public school located within the state, the new school shall accept any  
 19 credits earned and grades received by the student in courses or instructional  
 20 programs while enrolled in the public charter school in a uniform and consistent  
 21 manner and according to the same criteria that are used to accept credits from  
 22 other public schools.

23                    ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO  
 24 READ AS FOLLOWS:

25 (1) A public charter school shall not discriminate against any person on the basis of  
 26 race, creed, color, sex, disability, national origin, or any category that would be  
 27 unlawful if done by a noncharter public school.

- 1 (2) A public charter school shall not engage in any sectarian practice in its  
2 educational program, admissions or employment policies, or operations.
- 3 (3) (a) A public charter school shall not discriminate against any student on the  
4 basis of national origin, minority status, disability, or limited English  
5 proficiency.
- 6 (b) Consistent with federal civil rights laws, public charter schools shall provide  
7 limited-English-proficient students with appropriate services designed to  
8 teach them English and the general curriculum.
- 9 (c) 1. A public charter school shall have primary responsibility for special  
10 education at the school, including identification and service provision.  
11 It shall be responsible for meeting the needs of enrolled students with  
12 disabilities.
- 13 2. If a student's individualized education program team determines that  
14 a disabled student's needs are so profound that they cannot be met in  
15 the public charter school, and the public charter school cannot  
16 provide a free, appropriate public education to that student, the  
17 student's district of residence shall place the student in a more  
18 appropriate setting.
- 19 (4) A public charter school shall not charge tuition and may only charge such fees as  
20 may be imposed by noncharter public schools in the state.
- 21 (5) A public charter school shall be subject to the student assessment and  
22 accountability requirements applicable to noncharter public schools in the state,  
23 but may establish additional student assessment measures that exceed state  
24 requirements if approved by the public charter school's authorizer.
- 25 (6) The governing board of a public charter school and all entities with which a  
26 public charter school or its authorizer contracts for services in the amount of  
27 twenty-five thousand dollars (\$25,000) or more per year shall be subject to and

1 comply with the open meetings and open records requirements of KRS Chapter  
 2 61.

3 (7) A public charter school shall adhere to generally accepted accounting principles  
 4 and shall annually engage an external auditor to do an independent audit of the  
 5 school's finances. Within ten (10) days of receiving the audit report, the school  
 6 shall deliver a copy of the audit report to the authorizer of the school.

7 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO  
 8 READ AS FOLLOWS:

9 (1) An employee of a public charter school authorized by a local school district shall  
 10 be provided all the rights, privileges, and benefits provided to all other employees  
 11 of the authorizing school district.

12 (2) An employee of a public charter school not authorized by a local school district  
 13 shall:

14 (a) Have the same rights and privileges as those extended to local district  
 15 employees, except as otherwise stated in this section;

16 (b) Be provided the health and life insurance and other benefit programs  
 17 extended to local school district employees;

18 (c) Be eligible to participate in retirement and other benefits programs, if the  
 19 public charter school chooses to participate. If a public charter school  
 20 chooses to participate:

21 1. Employees shall participate in the Kentucky Teachers' Retirement  
 22 System or the County Employees Retirement System, as determined by  
 23 their eligibility for participation in the appropriate system;

24 2. The public charter school shall remit to the appropriate retirement  
 25 system the employer contributions required by law for participating  
 26 employers;

27 3. Teachers and other certified personnel shall make any required

1                   employee contributions to the Kentucky Teachers' Retirement System  
 2                   under KRS 161.220 to 161.716; and

3                   4. Classified employees shall make any required employee contributions  
 4                   to the County Employees Retirement System under KRS 78.510 to  
 5                   78.852;

6                   (d) Along with the members of the school's governing board, be subject to  
 7                   national and state criminal history background checks as required under  
 8                   KRS 160.380; and

9                   (e) Not be required to be members of any collective bargaining agreement, but  
 10                   shall have the right to organize and be free from discrimination.

11                   (3) Any state appropriation for retirement, health, or life insurance benefits made on  
 12                   behalf of a local public school employee shall also be made on behalf of a public  
 13                   charter school employee.

14                   ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO  
 15 READ AS FOLLOWS:

16                   (1) The State Board of Education shall establish an annual application and approval  
 17                   process, including cycles and deadlines during the fiscal year, for registering a  
 18                   potential public charter school authorizer. The application and approval process  
 19                   shall be submitted to the secretary of the Education and Workforce Development  
 20                   Cabinet for approval.

21                   (2) A prospective authorizer shall submit to the state board information in a format  
 22                   prescribed by the state board to include:

23                   (a) Written notification to serve as an authorizer of a public charter school;

24                   (b) An explanation of the prospective authorizer's strategic vision for  
 25                   chartering;

26                   (c) An explanation of the prospective authorizer's budget and personnel  
 27                   capacity and commitment to execute the duties of quality charter

- 1           authorizing as identified in this section;
- 2           (d) An explanation of how the prospective authorizer will solicit public charter
- 3           school applicants;
- 4           (e) A description or outline of the performance framework the potential
- 5           authorizer will use to guide the establishment of a charter contract and for
- 6           the oversight and evaluation of the public charter school;
- 7           (f) A draft of the prospective authorizer's renewal, revocation, and nonrenewal
- 8           processes to be applied to a school it authorizes;
- 9           (g) A statement of assurance that the prospective authorizer commits to serving
- 10           as an authorizer in fulfillment of the expectations, spirit, and intent of
- 11           Sections 1 to 9 of this Act and that standards of quality public charter
- 12           school authorizing will be fully adopted; and
- 13           (h) Procedures to be followed in the case of the revocation or nonrenewal of the
- 14           authorizer, including provisions for the transfer of students and student
- 15           records to the local school district in which the public charter school is
- 16           located or to another public charter school located within the local school
- 17           district and proper disposition of all school funds, property, and assets.
- 18           (3) The state board shall publish on the Department of Education's Web site:
- 19           (a) The procedures to follow to register as an authorizer of a public charter
- 20           school;
- 21           (b) A registration deadline date for a potential authorizer to submit information
- 22           required in subsection (2) of this section;
- 23           (c) Any application received from a prospective authorizer within ten (10) days
- 24           of receipt of the application; and
- 25           (d) A current list of registered authorizers, to include an address and phone
- 26           number of a contact person.
- 27           (4) The state board shall not charge a fee for any action required under this section

1 for which it is responsible.

2 (5) (a) Within sixty (60) days of receipt of the information required in subsection  
3 (2) of this section, the state board shall approve or deny the applicant as an  
4 authorizer of a public charter school and shall provide the authorizer with a  
5 letter indicating approval or denial.

6 (b) Upon approval, an authorizer shall continue as a registered authorizer  
7 engaging in any authorizing functions unless the ability to authorize has  
8 been taken away for cause by the state board.

9 (c) Applicants denied by the state board may appeal to the secretary of the  
10 Education and Workforce Development Cabinet who may uphold the denial  
11 or overturn the decision of the state board and approve an applicant as an  
12 authorizer. If the secretary upholds the state board's denial, he or she shall  
13 inform the applicant and the state board. If the secretary overturns the  
14 decision of the state board, the secretary shall provide the authorizer and  
15 the state board a letter indicating approval and providing an explanation as  
16 to why the state board's denial was overturned. The decision of the secretary  
17 shall be final.

18 (6) The state board shall develop closure protocol to be followed by a public charter  
19 school authorizer if the state board revokes the authority of the authorizer. The  
20 protocol shall:

21 (a) Ensure the orderly transition of students and student records to new  
22 schools, and proper disposition of school funds, property, and assets under  
23 control of an authorizer; and

24 (b) Specify tasks, timelines, and responsible parties, including delineating the  
25 respective duties of the state board, an authorizer, and a school.

26 (7) If the state board revokes the authority of a public charter school authorizer:

27 (a) A contract between the authorizer and the school shall be void;

1       **(b) A contract between the authorizer and any third party contracted to do**  
2       **business with or manage the school shall be void; and**

3       **(c) The authorizer shall follow closure protocol required under subsection (6)**  
4       **of this section and any additional termination procedures outlined in the**  
5       **contract with the state board.**

6       ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO  
7 READ AS FOLLOWS:

8       **(1) A public charter school authorizer shall publish and make available to an**  
9       **applicant the criteria and process to be used to review an application to establish**  
10       **a public charter school.**

11       **(2) An application to establish a charter school may be submitted to a charter school**  
12       **authorizer by teachers, parents, school administrators, community residents,**  
13       **public organizations, nonprofit organizations, or a combination thereof.**

14       **(3) The information provided in the application shall be consistent with this section**  
15       **and shall include:**

16       **(a) An executive summary, a mission statement, and a vision statement for the**  
17       **public charter school, including the targeted student population and the**  
18       **community the school hopes to serve;**

19       **(b) The location or geographic area proposed for the school;**

20       **(c) A description of the school's proposed academic program that is aligned**  
21       **with state standards, and that implements one (1) of more of the purposes**  
22       **described in Section 2 of this Act and the instructional design, including the**  
23       **type of learning environment, such as classroom-based or independent**  
24       **study, class size and structure, curriculum overview, and teaching methods**  
25       **that will support the implementation and success of the program;**

26       **(d) The student achievement goals for the charter school's educational**  
27       **program and the chosen methods of evaluating whether students have**

- 1           attained the skills and knowledge specified for those goals;
- 2           (e) The school's plan for using external, internal, and state-required  
3           assessments to measure student progress on the performance framework as  
4           identified in Section 6 of this Act, and how the school will use data to drive  
5           instruction and continued school improvement;
- 6           (f) The proposed governance structure of the school, including a list of  
7           members of the initial governing board and their backgrounds, a draft of  
8           the bylaws that include the description of the qualifications, terms, and  
9           methods of appointment or election of board members, and the  
10           organizational structure of the school that clearly presents lines of authority  
11           and reporting between the governing board, school administrator, staff, any  
12           related bodies, such as advisory bodies or parent and teacher councils, and  
13           any external organizations that will play a role in managing the school;
- 14           (g) Plans and timelines for student recruitment, transfers, and enrollment,  
15           including enrollment preferences and procedures for conducting  
16           transparent admission lotteries that are open to the public and are  
17           consistent with Section 3 of this Act;
- 18           (h) A proposed five (5) year budget, including the start-up year and projections  
19           for four (4) additional years with clearly stated assumptions;
- 20           (i) Draft fiscal and internal control policies for the charter school;
- 21           (j) Requirements and procedures for programmatic audits and assessments at  
22           least once annually, with audits and assessments being comparable in scope  
23           to those required of noncharter public schools;
- 24           (k) A draft handbook that outlines the personnel policies of the charter school,  
25           including the criteria to be used in the hiring of teachers, school  
26           administrators, and other school employees, a description of staff  
27           responsibilities, and the school's plan to evaluate personnel on an annual



1           basis;

2           (l) A draft of a code of student conduct that includes the policies and  
3           procedures by which students may be disciplined, including students with  
4           disabilities, which shall be consistent with the requirements of due process  
5           and with state and federal laws and regulations governing the placement of  
6           students with disabilities;

7           (m) A description of the facilities to be used by the school, including the location  
8           of the school, if known, and how the facility supports the implementation of  
9           the school's academic program. If the facilities to be used by the proposed  
10           school are not known at the time the application is submitted, the applicant  
11           shall notify the authorizer within ten (10) business days of acquiring  
12           facilities for the school. The school shall obtain certification of occupancy  
13           for the facilities at least thirty (30) days prior to the first student  
14           instructional day;

15           (n) The proposed ages and grade levels to be served by the school, including the  
16           planned, minimum, and maximum enrollment per grade per year;

17           (o) The school calendar and school day schedule, which shall total at least the  
18           number of days, or their equivalent, required under KRS 158.070;

19           (p) Types and amounts of insurance coverage to be obtained by the school,  
20           which shall include adequate insurance for liability, property loss, and the  
21           personal injury of students, employees, and visitors to the school;

22           (q) Evidence of community support for and interest in the school sufficient to  
23           allow the school to reach its anticipated enrollment;

24           (r) A description of the health and food services to be provided to students  
25           attending the school;

26           (s) A code of ethics for the school setting forth the standards of conduct  
27           expected of its governing board and employees;

- 1        (t) Plans for recruiting and developing staff;
- 2        (u) A staffing chart for the school's first year and a staffing chart for the term
- 3                of the charter;
- 4        (v) A plan for parental and community involvement in the school, including the
- 5                role of parents in the administration and governance of the school;
- 6        (w) The school's plan for identifying and successfully serving students with
- 7                disabilities, students who are English language learners, bilingual students,
- 8                and students who are academically behind and gifted, including but not
- 9                limited to the school's plan for compliance with all applicable federal and
- 10               state laws and regulations;
- 11        (x) A description of cocurricular and extracurricular programs and how they
- 12               will be funded and delivered; and
- 13        (y) A detailed start-up plan to include financing, tasks, and timelines, and
- 14               individuals responsible for carrying out the plan.
- 15        (4) If the public charter school intends to contract with an education service provider
- 16               for educational program implementation or comprehensive management, the
- 17               application shall additionally require the applicants to:
- 18        (a) Provide evidence of success in serving student populations similar to the
- 19               targeted population, including demonstrated academic achievement and
- 20               successful management of nonacademic school functions, if applicable;
- 21        (b) Provide a term sheet setting forth:
- 22               1. The proposed duration of the service contract;
- 23               2. The roles and responsibilities of the governing board, the school staff,
- 24               and the education service provider;
- 25               3. The scope of services and resources to be provided by the education
- 26               service provider;
- 27               4. Performance evaluation measures and timelines;

- 1           5. Compensation structure, including clear identification of all fees to be  
2           paid to the education service provider;
- 3           6. Methods of contract oversight and enforcement;
- 4           7. Investment disclosure; and
- 5           8. Conditions for renewal and termination of the contract; and
- 6           (c) Disclose and explain any existing or potential conflicts of interest between  
7           the governing board and the proposed education service provider or any  
8           affiliated business entities.
- 9           (5) In the case of a proposed public charter school from an applicant that currently  
10           operates one (1) or more public charter schools in any state or nation, in addition  
11           to the requirements of subsection (4) of this section, the application shall require  
12           the applicant to provide evidence of past performance and current capacity for  
13           growth.
- 14           (6) In the case of a proposed public charter school that plans to establish a full-time  
15           virtual public charter school, the application shall be submitted for approval to  
16           the State Board of Education, which shall be the sole authorizer of virtual public  
17           charter schools. In addition to the requirements of subsection (4) of this section,  
18           the application shall require the applicant to provide a description regarding the  
19           methods by which the school will:
- 20           (a) Ensure that adequate supports are available to students in their homes or  
21           regions, including parent-teacher conferences and interactions;
- 22           (b) Monitor student outcomes and administer state-required assessments to all  
23           students in a proctored setting;
- 24           (c) Establish and implement legally permissible criteria and processes for  
25           enrollment based on the existence of supports needed for student success;
- 26           (d) Provide the desired enrollment level of the school for each year of the  
27           contract with any increases in enrollment from one (1) year to the next

- 1           based on whether the school meets its performance requirements;
- 2           (e) Provide detailed costs for the school and propose a funding level per student
- 3           for the school that is based upon these detailed costs; and
- 4           (f) Provide data for oversight, funding, and renewal and closure decisions for
- 5           full-time virtual public charter school-specific goals regarding student
- 6           enrollment, attendance, engagement, achievement, truancy, and attrition
- 7           that demonstrates the school meets agreed-upon benchmarks.
- 8           (7) After a charter applicant submits a written application to establish a public
- 9           charter school to an authorizer, the authorizer shall:
- 10           (a) Complete a thorough review of the application;
- 11           (b) Conduct an in-person interview of the applicant or applicants;
- 12           (c) Provide an opportunity in a public forum for local residents to learn about
- 13           and provide input on each application;
- 14           (d) Provide a detailed analysis of the application to the applicant or applicants;
- 15           (e) Allow an applicant a reasonable time to provide additional materials and
- 16           amendments to its application to address any identified deficiencies;
- 17           (f) Approve or deny a charter application or request additional information;
- 18           (g) Execute a separate and distinct contract with each school it authorizes,
- 19           incorporating and consistent with approved applications, between the
- 20           authorizer and the public charter school detailing the rights and
- 21           responsibilities of the authorizer and the public charter school and setting
- 22           forth the academic and operational performance expectations and measures
- 23           by which the public charter school will be assessed. The authorizer may
- 24           make the approved application the charter contract;
- 25           (h) Monitor on a regular basis the performance of a public charter school it
- 26           authorizes; and
- 27           (i) Establish through formal rulemaking renewal and revocation criteria and

1 processes for a public charter school it authorizes.

2 (8) In deciding whether to approve a charter application, an authorizer shall:

3 (a) Grant charters only to applicants that have demonstrated competence in  
4 each element of the authorizer's published approval criteria and that are  
5 very likely to open and operate an academically and operationally  
6 successful public charter school;

7 (b) Base decisions on documented evidence collected through the application  
8 review process; and

9 (c) Follow charter-granting policies and practices that are transparent and  
10 based on merit, avoiding conflicts of interest or any appearance thereof.

11 (9) No later than sixty (60) days after the receipt of a charter application, the  
12 authorizer shall decide to approve or deny the application. The authorizer shall  
13 adopt by resolution all charter approval or denial decisions in an open meeting of  
14 the authorizer's governing board.

15 (10) (a) A decision to approve a charter application may include reasonable  
16 conditions that the applicant must meet prior to the execution of a charter  
17 contract. Reasonable conditions may not include enrollment caps or  
18 operational requirements that are contradictory to the provisions of  
19 Sections 3 and 4 of this Act.

20 (b) For each public charter school it authorizes, an authorizer may charge an  
21 annual administrative fee in an amount not to exceed two percent (2%) of  
22 the funds received by a public charter school under subsection (3) of  
23 Section 10 this Act. The authorizer shall use the fees exclusively for the  
24 purpose of fulfilling authorizing obligations.

25 (11) (a) An authorizer shall clearly state, for the public record, its reasons for denial  
26 of a charter application.

27 (b) A denial of an application may be appealed to the State Board of Education.

1           *A denied applicant may reapply to the authorizer or apply to another*  
2           *authorizer. An application shall not be reconsidered for approval after*  
3           *being denied by two (2) authorizers and the State Board of Education.*

4           *(12) (a) Within ten (10) days of taking action to approve or deny a charter*  
5           *application, the authorizer shall notify the Department of Education of the*  
6           *action taken.*

7           *(b) The authorizer shall provide a report to the charter applicant and the*  
8           *Department of Education simultaneously and include a copy of the*  
9           *resolution adopted by the authorizer's governing board setting forth the*  
10           *action taken, the reasons for the decision, and an assurance as to*  
11           *compliance with all of the procedural requirements and application*  
12           *elements found in Sections 6 and 7 of this Act.*

13           ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO  
14 READ AS FOLLOWS:

15           *(1) A charter contract between a public charter school authorizer and a public*  
16           *charter school may be renewed for a term of duration of no more than five (5)*  
17           *years. The authorizer may vary the term based on the performance, demonstrated*  
18           *capacities, and particular circumstances of each public charter school. An*  
19           *authorizer may grant renewal with specific conditions for necessary*  
20           *improvements to a public charter school, but may not impose conditions*  
21           *inconsistent with Sections 1 to 9 of this Act.*

22           *(2) (a) No later than six (6) months prior to the expiration date of a charter*  
23           *contract, an authorizer shall issue a public charter school performance*  
24           *report and charter renewal application guidance to the public charter*  
25           *school it authorized. The performance report shall summarize the school's*  
26           *performance record to date, based on the performance framework required*  
27           *under Section 6 of this Act and the charter contract, and shall provide*

1 notice of any weaknesses or concerns related to the school that may  
2 jeopardize its position in seeking renewal if not timely rectified.

3 (b) The school shall have ten (10) days to respond to the performance report  
4 and submit any corrections or clarification for the report.

5 (c) Within twenty (20) days of receiving a school's response, the authorizer  
6 shall review the response and issue a final performance report to the school.

7 (3) (a) The renewal application guidance shall, at a minimum, provide an  
8 opportunity for the public charter school to:

9 1. Present additional evidence beyond the data contained in the  
10 performance report supporting its case for charter renewal;

11 2. Describe improvements undertaken or planned for the school; and

12 3. Detail the school's plan for the next charter term.

13 (b) The renewal application guidance shall include or refer explicitly to the  
14 criteria that will guide the authorizer's renewal decisions, which shall be  
15 based on the performance framework as identified in the charter contract.

16 (4) No later than three (3) months prior to the expiration date of a charter contract,  
17 the governing board of a public charter school seeking charter contract renewal  
18 shall submit a renewal application to the authorizer pursuant to the renewal  
19 application guidance issued by the authorizer. The authorizer shall rule by  
20 resolution on the renewal application no later than thirty (30) days after receipt  
21 of the application.

22 (5) In making a charter renewal decision, an authorizer shall:

23 (a) Base its decision on evidence of the public charter school's performance  
24 over the term of the charter contract in accordance with the performance  
25 framework required in the charter contract;

26 (b) Ensure that data used in making renewal decisions is available to the public  
27 charter school and the public; and

- 1        (c) Provide a public report summarizing the evidence basis for each decision.
- 2        (6) A charter contract may be revoked at any time or not renewed if the authorizer  
3        determines that the public charter school has:
- 4        (a) Not complied with Sections 1 to 9 of this Act:
- 5        (b) Committed a material violation of any of the terms, conditions, standards,  
6        or procedures required under Sections 1 to 9 of this Act or the charter  
7        contract, and has persistently failed to correct the violation after fair and  
8        specific notice from the authorizer;
- 9        (c) Failed to meet or make progress toward the performance expectations set  
10       forth in the charter contract;
- 11       (d) Failed to meet generally accepted standards of fiscal management, and has  
12       failed to correct the violation after fair and specific notice from the  
13       authorizer; or
- 14       (e) Substantially violated any material provision of law from which the public  
15       charter school was not exempted and has failed to correct the violation after  
16       fair and specific notice from the authorizer.
- 17       (7) An authorizer may take immediate action to revoke a charter contract if a  
18       violation threatens the health and safety of the students of the public charter  
19       school or if an employee of the school or member of the school's governing board  
20       has committed a material violation of the law.
- 21       (8) An authorizer shall develop a revocation and nonrenewal process that:
- 22       (a) Provides the charter holder with a timely notification of the prospect of  
23       revocation or nonrenewal and of the reasons for such possible closure;
- 24       (b) Allows the charter holder a reasonable time in which to prepare a response;
- 25       (c) Provides the charter holder with an opportunity to submit documentation  
26       and provide testimony challenging the rationale behind the closure and in  
27       support of the continuation of the school at an orderly proceeding held for



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

that purpose;

(d) Allows the charter holder the right to representation by counsel and to call witnesses on behalf of the charter holder;

(e) Permits the recording of such proceedings; and

(f) After a reasonable period for deliberation, requires a final determination be made and conveyed in writing to the charter holder.

(9) If an authorizer revokes or does not renew a contract, the authorizer shall clearly state, in a resolution of its governing board, the reason for the revocation or nonrenewal.

(10) Within ten (10) days of taking action to renew, not renew, or revoke a charter, the authorizer shall report to the Department of Education the action taken, and shall provide a report to the public charter school at the same time the report is submitted to the Department of Education. The report shall include a copy of a resolution adopted by the authorizer's governing board setting forth the action taken and reasons for the decision and assurance as to compliance with all of the procedural requirements and application elements found in Section 6 of this Act.

(11) (a) An authorizer shall develop a public charter school closure protocol to ensure timely notification to parents, orderly transition of students and student records to new schools, and proper disposition of school funds, property, and assets. The protocol shall specify tasks, timelines, and responsible parties, including delineating the respective duties of the school and the authorizer. If a public charter school closes for any reason, the authorizer shall oversee and work with the closing school to ensure a smooth and orderly closure and transition for students and parents, as guided by the closure protocol.

(b) If a public charter school closes for any reason, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for

1           employees of the school, then to creditors of the school, then to the State  
2           Treasurer for depository into the state general fund. If the assets are  
3           insufficient to satisfy outstanding obligations, the authorizer shall petition  
4           the Circuit Court of the county in which the public charter school is located  
5           to prioritize the distribution of assets.

6           ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO  
7 READ AS FOLLOWS:

- 8           (1) An existing public school not scheduled for closure may be converted into a  
9           charter school and be identified as a conversion public charter school if:  
10           (a) A simple majority of the parents or guardians of students who attend the  
11           school have signed a petition requesting the conversion, which shall be  
12           completed not later than ninety (90) days after the date of the first  
13           signature; or  
14           (b) The local school board votes to convert an existing public school within its  
15           district boundary.
- 16           (2) If a local school board operates a school that has failed to meet its targeted  
17           academic goals, as established by the Department of Education, for four (4)  
18           consecutive years, the local school board shall not serve as the authorizer if that  
19           school seeks to become a public charter school.
- 20           (3) A conversion public charter school shall be governed by a governing board.
- 21           (4) A conversion public charter school shall continue to comply with all federal and  
22           state requirements concerning the treatment of children with special needs and  
23           accept all students who attended the school prior to its conversion who wish to  
24           attend. If the number of students enrolled does not exceed the capacity of the  
25           school, enrollment preference shall be given first to students who reside within  
26           the school district boundary in which the charter school is located and then to  
27           students who reside outside the district boundary.

1 (5) (a) An employee who works in a conversion public charter school may be an  
 2 employee of the public charter school or of both the public charter school  
 3 and the school district that authorized the charter school, as determined by  
 4 the provisions of the school's charter,

5 (b) All benefits accrued by an employee of a conversion public charter school  
 6 during the time the employee was an employee of the school district that  
 7 authorized the charter school are the financial responsibility of the school  
 8 district. The authorizer shall pay those benefits directly or reimburse the  
 9 conversion public charter school for the costs of the benefits.

10 (6) (a) For any collective bargaining agreement entered into on or after the  
 11 effective date of this Act, a governing board shall not be bound by its  
 12 collective bargaining agreement for employees of a conversion public  
 13 charter school.

14 (b) Employees of a conversion public charter school may organize and  
 15 collectively bargain only as a unit separate from other school employees.

16 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO  
 17 READ AS FOLLOWS:

18 (1) As used in this section, "authorizer," "governing board," "local school board,"  
 19 "public chartered school," and "school district" have the same meanings as in  
 20 Section 1 of this Act.

21 (2) A local board shall, at a minimum, fund a public charter school authorized by  
 22 the school district at the same level as noncharter public schools located in the  
 23 school district.

24 (3) (a) Public funding for a public charter school not authorized by a school  
 25 district shall consist of state and local funds as provided in this subsection.

26 (b) 1. a. The public charter school shall receive an amount equal to the  
 27 base funding level for each pupil in average daily attendance at

1 the public charter school during the previous year. The base  
2 funding level shall be calculated as provided in KRS 157.390(5).  
3 If the General Assembly provides for increases in the base  
4 funding level based on particular characteristics of students in  
5 an enacted branch budget bill or any other statute, public  
6 charter schools shall be treated as any other school district with  
7 regard to the increases.

8 b. The adjustments provided in KRS 157.360(9), (10), and (11)  
9 shall be applied to the base funding level for public charter  
10 schools, and KRS 157.430 shall apply to public charter schools if  
11 implemented by the chief state school officer.

12 2. a. In addition to the amount provided under subparagraph 1. of  
13 this paragraph, if the district in which the public charter school  
14 is located levies the tax rate authorized by KRS 157.440(1)(a),  
15 commonly referred to as "Tier I," or the tax rate authorized by  
16 KRS 157.440(2)(a), commonly referred to as "Tier II," the  
17 public charter school shall receive an amount equal to the  
18 proportionate amount of revenues generated from those levies,  
19 as determined under subdivision b. of this subparagraph, and  
20 paid as provided in paragraphs (c), (d), and (e) of this  
21 subsection.

22 b. The Department of Education shall determine the amount to be  
23 transferred to the public charter school under subdivision a. of  
24 this subparagraph by establishing the maximum amount that  
25 may be generated by the local school district pursuant to the rate  
26 authorized by KRS 157.440(1)(a), and if the district also levies  
27 the rate authorized by KRS 157.440(2)(a), the maximum amount

1                   that may be generated by the local school district from that levy.  
2                   That total amount shall be divided by the number of pupils in  
3                   average daily attendance in the local school district during the  
4                   prior year, including pupils attending the public charter school.  
5                   The resulting number shall be multiplied by the number of  
6                   pupils in average daily attendance at the public charter school  
7                   during the prior year to determine the additional amount to be  
8                   transferred to the public charter school under this  
9                   subparagraph. Any equalization provided to the local school  
10                  district based on the levy of the Tier I rate shall be shared with  
11                  the public charter school proportionally.

12                  (c) The total amount of funds to be transferred to the public charter school  
13                  shall be paid by the state and the school district within which the public  
14                  charter school is located. The state portion of the funding required by  
15                  paragraph (b)1. of this subsection shall be the same proportion as the state  
16                  portion of the program for the local school district in which the public  
17                  charter school is located as determined under KRS 157.360(17). The  
18                  remainder of the total funds, including amounts determined under  
19                  paragraph (b)2. of this subsection, shall be considered the school district  
20                  portion.

21                  (d) The total amount due the public charter school, including the state and  
22                  local school district portions, shall be paid to the public charter school by  
23                  the Department of Education at the same time and in the same manner as  
24                  provided in KRS 157.410 for payment to school districts.

25                  (e) The amount due to the public charter school which constitutes the school  
26                  district portion shall be deducted from the amount that would otherwise be  
27                  paid to that school district by the Department of Education as provided in

1           *KRS 157.410. The Department of Education shall provide an accounting to*  
2           *the school district of the amounts transferred to the public charter school*  
3           *that constitute local funds.*

4           *(f) 1. A public charter school in its first year of operation shall be eligible to*  
5           *receive funding as described in this subsection based on the estimated*  
6           *number of pupils in average daily attendance for the first year of*  
7           *operation.*

8           *2. The estimated number of pupils shall be determined by the authorizer*  
9           *as part of the charter approval process, based on information included*  
10           *in the charter agreement. The authorizer shall notify the Department*  
11           *of Education and the school district within which the public charter*  
12           *school is located of its estimates, and the Department of Education*  
13           *shall use those estimates in making the calculations and payments*  
14           *required by this subsection.*

15           *3. Within five (5) days after the first twenty (20) school days, the public*  
16           *charter school shall report to the authorizer, the Kentucky Department*  
17           *of Education, and the school district its actual daily attendance for the*  
18           *first month of school, and the Department of Education shall adjust*  
19           *future payments to the public charter school to reflect the actual*  
20           *average daily attendance reported. Subsequent adjustments provided*  
21           *under KRS 157.410 shall also apply to funds distributed to a public*  
22           *charter school in its initial year of operation.*

23           *(4) A public charter school shall be eligible for federal and state competitive grants*  
24           *and shall not be excluded from an opportunity to participate as an independent*  
25           *educational entity so long as the available grants align with the grade levels*  
26           *included in the public charter school and the other criteria established for the*  
27           *respective grants.*

1 (5) A public charter school shall receive a proportionate share of moneys generated  
2 under federal and state categorical aid programs for students that are eligible for  
3 the aid and attending the public charter school.

4 (6) (a) The governing board of a public charter school may accept gifts, donations,  
5 or grants of any kind made to the school and expend or use the gifts,  
6 donations, or grants in accordance with the conditions prescribed by the  
7 donor.

8 (b) A gift or donation shall not be required for admission or used as a means to  
9 gain admission to the public charter school.

10 (c) A gift, donation, or grant shall not be accepted by the governing board if it  
11 is subject to a condition that is contrary to law or contrary to the terms of  
12 the contract between the public charter school and the authorizer.

13 (d) All gifts, donations, or grants shall be reported to the public charter school  
14 authorizer in the public charter school's annual report.

15 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO  
16 READ AS FOLLOWS:

17 (1) There is hereby established in the Kentucky Finance and Administration Cabinet  
18 a public charter school facility revolving loan program. The program shall be  
19 composed of federal funds obtained by the state for public charter schools, as  
20 defined in Section 1 of this Act, and any other funds appropriated or transferred  
21 to the fund by the state. Funds appropriated to the public charter school facility  
22 revolving loan program shall remain available for the purposes of the program  
23 until reappropriated or reverted by the General Assembly.

24 (2) (a) Loans may be made from moneys in the public charter school facility  
25 revolving loan program to a public charter school, upon application by a  
26 public charter school, and upon approval of the State Board of Education  
27 or its designee.

1       **(b) Moneys loaned shall be for construction, purchase, renovation, and**  
2       **maintenance of public charter school facilities.**

3       **(c) A public charter school may receive multiple loans from the public charter**  
4       **school facility revolving loan program.**

5       **(3) The State Board of Education or designee may consider the following when**  
6       **making a determination as to the approval of a public charter school's loan**  
7       **application:**

8       **(a) The soundness of the financial business plan of the applicant public charter**  
9       **school;**

10       **(b) Availability to the public charter school of other sources of funding;**

11       **(c) Geographic distribution of loans made from the public charter school**  
12       **facility revolving loan program;**

13       **(d) The impact that loans received under this section will have on the public**  
14       **charter school's receipt of other private and public financing;**

15       **(e) Plans for innovatively enhancing or leveraging funds received under this**  
16       **section, such as loan guarantees or other types of credit enhancements; and**

17       **(f) The financial needs of the public charter school.**

18       **(4) Beginning with the first fiscal year following the fiscal year a public charter**  
19       **school receives a loan, the Department of Education shall deduct from**  
20       **apportionments made to a public charter school, as appropriate, an amount equal**  
21       **to the annual repayment of the amount loaned to a public charter school under**  
22       **this section and pay the same amount into the public charter school facility**  
23       **revolving loan program in the Finance and Administration Cabinet. Repayment**  
24       **of the full amount loaned to a public charter school shall be deducted by the State**  
25       **Department of education in equal annual amounts over a number of years agreed**  
26       **upon between the public charter school and the State Board of Education or its**  
27       **designee.**



1 (5) Notwithstanding any other statute to the contrary, a loan may be made to a public  
 2 charter school under this section only if the public charter school is incorporated.

3 (6) Notwithstanding any other statute to the contrary, in the case of default of a loan  
 4 made to a public charter school under the provisions of this section, the public  
 5 charter school shall be solely liable for repayment of the loan.

6 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 162 IS CREATED TO  
 7 READ AS FOLLOWS:

8 (1) A public charter school as defined in Section 1 of this Act shall have a right of  
 9 first refusal to purchase or lease at or below fair market value a closed public  
 10 school facility or property or unused portions of a public school facility or  
 11 property located in a school district from which the public charter school draws  
 12 its students if the school district decides to sell or lease the public school facility  
 13 or property.

14 (2) A public charter school may negotiate and contract at or below fair market value  
 15 with a school district, the governing body of a public postsecondary education  
 16 institution, or any public or for-profit or nonprofit private entity for the use of a  
 17 facility for a school building.

18 (3) Library, community service, museum, performing arts, theatre, cinema, church,  
 19 or postsecondary education facilities may provide space to a public charter school  
 20 under their pre-existing zoning and land use designations.

21 ➔Section 13. KRS 161.220 is amended to read as follows:

22 As used in KRS 161.220 to 161.716 and 161.990:

23 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to  
 24 161.716 and 161.990 for payment of allowances to members;

25 (2) "Retirement allowance" means the amount annually payable during the course of his  
 26 natural life to a member who has been retired by reason of service;

27 (3) "Disability allowance" means the amount annually payable to a member retired by

1 reason of disability;

2 (4) "Member" means the commissioner of education, deputy commissioners, associate  
3 commissioners, and all division directors in the State Department of Education,  
4 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any  
5 full-time teacher or professional occupying a position requiring certification or  
6 graduation from a four (4) year college or university, as a condition of employment,  
7 and who is employed by public boards, institutions, or agencies as follows:

8 (a) Local boards of education;

9 (b) Eastern Kentucky University, Kentucky State University, Morehead State  
10 University, Murray State University, Western Kentucky University, and any  
11 community colleges established under the control of these universities;

12 (c) State-operated secondary area vocational education or area technology centers,  
13 Kentucky School for the Blind, and Kentucky School for the Deaf;

14 (d) The Education Professional Standards Board, other public education agencies  
15 as created by the General Assembly, and those members of the administrative  
16 staff of the Teachers' Retirement System of the State of Kentucky whom the  
17 board of trustees may designate by administrative regulation;

18 (e) Regional cooperative organizations formed by local boards of education or  
19 other public educational institutions listed in this subsection, for the purpose  
20 of providing educational services to the participating organizations;

21 (f) All full-time members of the staffs of the Kentucky Association of School  
22 Administrators, Kentucky Education Association, Kentucky Vocational  
23 Association, Kentucky High School Athletic Association, Kentucky Academic  
24 Association, and the Kentucky School Boards Association who were members  
25 of the Kentucky Teachers' Retirement System or were qualified for a position  
26 covered by the system at the time of employment by the association in the  
27 event that the board of directors of the respective association petitions to be

- 1 included. The board of trustees of the Kentucky Teachers' Retirement System  
2 may designate by resolution whether part-time employees of the petitioning  
3 association are to be included. The state shall make no contributions on  
4 account of these employees, either full-time or part-time. The association shall  
5 make the employer's contributions, including any contribution that is specified  
6 under KRS 161.550. The provisions of this paragraph shall be applicable to  
7 persons in the employ of the associations on or subsequent to July 1, 1972;
- 8 (g) Employees of the Council on Postsecondary Education who were employees  
9 of the Department for Adult Education and Literacy and who were members  
10 of the Kentucky Teachers' Retirement System at the time the department was  
11 transferred to the council pursuant to Executive Order 2003-600;
- 12 (h) The Office of Career and Technical Education, except that the executive  
13 director shall not be a member;
- 14 (i) The Office of Vocational Rehabilitation;
- 15 (j) The Kentucky Educational Collaborative for State Agency Children;
- 16 (k) The Governor's Scholars Program;
- 17 (l) Any person who is retired for service from the retirement system and is  
18 reemployed by an employer identified in this subsection in a position that the  
19 board of trustees deems to be a member;
- 20 (m) Employees of the former Cabinet for Workforce Development who are  
21 transferred to the Kentucky Community and Technical College System and  
22 who occupy positions covered by the Kentucky Teachers' Retirement System  
23 shall remain in the Teachers' Retirement System. New employees occupying  
24 these positions, as well as newly created positions qualifying for Teachers'  
25 Retirement System coverage that would have previously been included in the  
26 former Cabinet for Workforce Development, shall be members of the  
27 Teachers' Retirement System;

- 1 (n) Effective January 1, 1998, employees of state community colleges who are  
2 transferred to the Kentucky Community and Technical College System shall  
3 continue to participate in federal old age, survivors, disability, and hospital  
4 insurance, and a retirement plan other than the Kentucky Teachers' Retirement  
5 System offered by Kentucky Community and Technical College System. New  
6 employees occupying positions in the Kentucky Community and Technical  
7 College System as referenced in KRS 164.5807(5) that would not have  
8 previously been included in the former Cabinet for Workforce Development,  
9 shall participate in federal old age, survivors, disability, and hospital insurance  
10 and have a choice at the time of employment of participating in a retirement  
11 plan provided by the Kentucky Community and Technical College System,  
12 including participation in the Kentucky Teachers' Retirement System, on the  
13 same basis as faculty of the state universities as provided in KRS 161.540 and  
14 161.620;
- 15 (o) Employees of the Office of General Counsel, the Office of Budget and  
16 Administrative Services, and the Office of Quality and Human Resources  
17 within the Office of the Secretary of the former Cabinet for Workforce  
18 Development and the commissioners of the former Department for Adult  
19 Education and Literacy and the former Department for Technical Education  
20 who were contributing to the Kentucky Teachers' Retirement System as of  
21 July 15, 2000;
- 22 (p) Employees of the Kentucky Department of Education only who are graduates  
23 of a four (4) year college or university, notwithstanding a substitution clause  
24 within a job classification, and who are serving in a professional job  
25 classification as defined by the department;~~and~~
- 26 (q) **Employees of a public charter school, as defined in Section 1 of this Act,**  
27 **who are eligible under the provisions of Section 5 of this Act; and**

- 1        (r) The governor's School for Entrepreneurs Program.
- 2        (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,  
3        and became a member of the retirement system created by 1938 (1st Extra. Sess.)  
4        Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year  
5        after that date, and any teacher who was a member of a local teacher retirement  
6        system in the public elementary or secondary schools of the state on or before July  
7        1, 1940, and continued to be a member of the system until he, with the membership  
8        of the local retirement system, became a member of the state Teachers' Retirement  
9        System or who becomes a member under the provisions of KRS 161.470(4);
- 10       (6) "New teacher" means any member not a present teacher;
- 11       (7) "Prior service" means the number of years during which the member was a teacher  
12       in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior  
13       service shall be allowed or credited to any teacher;
- 14       (8) "Subsequent service" means the number of years during which the teacher is a  
15       member of the Teachers' Retirement System after July 1, 1941;
- 16       (9) "Final average salary" means the average of the five (5) highest annual salaries  
17       which the member has received for service in a covered position and on which the  
18       member has made contributions, or on which the public board, institution, or  
19       agency has picked-up member contributions pursuant to KRS 161.540(2), or the  
20       average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),  
21       which shall include picked-up member contributions. Additionally, the board of  
22       trustees may approve a final average salary based upon the average of the three (3)  
23       highest salaries for members who are at least fifty-five (55) years of age and have a  
24       minimum of twenty-seven (27) years of Kentucky service credit. However, if any of  
25       the five (5) or three (3) highest annual salaries used to calculate the final average  
26       salary was paid within the three (3) years immediately prior to the date of the  
27       member's retirement, the amount of salary to be included for each of those three (3)

1 years for the purpose of calculating the final average salary shall be limited to the  
2 lesser of:

- 3 (a) The member's actual salary; or  
4 (b) The member's annual salary that was used for retirement purposes during each  
5 of the prior three (3) years, plus a percentage increase equal to the percentage  
6 increase received by all other members employed by the public board,  
7 institution, or agency, or for members of school districts, the highest  
8 percentage increase received by members on any one (1) rank and step of the  
9 salary schedule of the school district. The increase shall be computed on the  
10 salary that was used for retirement purposes.

11 This limitation shall not apply if the member receives an increase in salary in a  
12 percentage exceeding that received by the other members, and this increase was  
13 accompanied by a corresponding change in position or in length of employment.

14 This limitation shall also not apply to the payment to a member for accrued annual  
15 leave if the individual becomes a member before July 1, 2008, or accrued sick leave  
16 which is authorized by statute and which shall be included as part of a retiring  
17 member's annual compensation for the member's last year of active service;

18 (10) "Annual compensation" means the total salary received by a member as  
19 compensation for all services performed in employment covered by the retirement  
20 system during a fiscal year. Annual compensation shall not include payment for any  
21 benefit or salary adjustments made by the public board, institution, or agency to the  
22 member or on behalf of the member which is not available as a benefit or salary  
23 adjustment to other members employed by that public board, institution, or agency.  
24 Annual compensation shall not include the salary supplement received by a member  
25 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no  
26 circumstances shall annual compensation include compensation that is earned by a  
27 member while on assignment to an organization or agency that is not a public board,

1 institution, or agency listed in subsection (4) of this section. In the event that federal  
2 law requires that a member continue membership in the retirement system even  
3 though the member is on assignment to an organization or agency that is not a  
4 public board, institution, or agency listed in subsection (4) of this section, the  
5 member's annual compensation for retirement purposes shall be deemed to be the  
6 annual compensation, as limited by subsection (9) of this section, last earned by the  
7 member while still employed solely by and providing services directly to a public  
8 board, institution, or agency listed in subsection (4) of this section. The board of  
9 trustees shall determine if any benefit or salary adjustment qualifies as annual  
10 compensation. For an individual who becomes a member on or after July 1, 2008,  
11 annual compensation shall not include lump-sum payments upon termination of  
12 employment for accumulated annual or compensatory leave;

13 (11) "Age of member" means the age attained on the first day of the month immediately  
14 following the birthdate of the member. This definition is limited to retirement  
15 eligibility and does not apply to tenure of members;

16 (12) "Employ," and derivatives thereof, means relationships under which an individual  
17 provides services to an employer as an employee, as an independent contractor, as  
18 an employee of a third party, or under any other arrangement as long as the services  
19 provided to the employer are provided in a position that would otherwise be covered  
20 by the Kentucky Teachers' Retirement System and as long as the services are being  
21 provided to a public board, institution, or agency listed in subsection (4) of this  
22 section;

23 (13) "Regular interest" means interest at three percent (3%) per annum, except for an  
24 individual who becomes a member on or after July 1, 2008, "regular interest" means  
25 interest at two and one-half percent (2.5%) per annum for purposes of crediting  
26 interest to the teacher savings account or any other contributions made by the  
27 employee that are refundable to the employee upon termination of employment;

- 1 (14) "Accumulated contributions" means the contributions of a member to the teachers'  
2 savings fund, including picked-up member contributions as described in KRS  
3 161.540(2), plus accrued regular interest;
- 4 (15) "Annuitant" means a person who receives a retirement allowance or a disability  
5 allowance;
- 6 (16) "Local retirement system" means any teacher retirement or annuity system created  
7 in any public school district in Kentucky in accordance with the laws of Kentucky;
- 8 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The  
9 retirement plan year is concurrent with this fiscal year. A contract for a member  
10 employed by a local board of education may not exceed two hundred sixty-one  
11 (261) days in the fiscal year;
- 12 (18) "Public schools" means the schools and other institutions mentioned in subsection  
13 (4) of this section;
- 14 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was  
15 receiving, at the time of death of the member, at least one-half (1/2) of the support  
16 from the member for maintenance, including board, lodging, medical care, and  
17 related costs;
- 18 (20) "Active contributing member" means a member currently making contributions to  
19 the Teachers' Retirement System, who made contributions in the next preceding  
20 fiscal year, for whom picked-up member contributions are currently being made, or  
21 for whom these contributions were made in the next preceding fiscal year;
- 22 (21) "Full-time" means employment in a position that requires services on a continuing  
23 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year  
24 basis;
- 25 (22) "Full actuarial cost," when used to determine the payment that a member must pay  
26 for service credit means the actuarial value of all costs associated with the  
27 enhancement of a member's benefits or eligibility for benefit enhancements,



1 including health insurance supplement payments made by the retirement system.  
2 The actuary for the retirement system shall determine the full actuarial value costs  
3 and actuarial cost factor tables as provided in KRS 161.400;

4 (23) "Last annual compensation" means the annual compensation, as defined by  
5 subsection (10) of this section and as limited by subsection (9) of this section,  
6 earned by the member during the most recent period of contributing service, either  
7 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)  
8 full year of service credit in the Kentucky Teachers' Retirement System, and which  
9 compensation is used in calculating the member's initial retirement allowance,  
10 excluding bonuses, retirement incentives, payments for accumulated sick, annual,  
11 personal and compensatory leave, and any other lump-sum payment. For an  
12 individual who becomes a member on or after July 1, 2008, payments for annual or  
13 compensatory leave shall not be included in determining the member's last annual  
14 compensation;

15 (24) "Participant" means a member, as defined by subsection (4) of this section, or an  
16 annuitant, as defined by subsection (15) of this section;

17 (25) "Qualified domestic relations order" means any judgment, decree, or order,  
18 including approval of a property settlement agreement, that:

19 (a) Is issued by a court or administrative agency; and

20 (b) Relates to the provision of child support, alimony payments, or marital property  
21 rights to an alternate payee; and

22 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
23 participant, who is designated to be paid retirement benefits in a qualified domestic  
24 relations order.

25 ➔Section 14. KRS 78.510 is amended to read as follows:

26 As used in KRS 78.510 to 78.852, unless the context otherwise requires:

27 (1) "System" means the County Employees Retirement System;

- 1 (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- 2 (3) "County" means any county, or nonprofit organization created and governed by a  
3 county, counties, or elected county officers, sheriff and his employees, county clerk  
4 and his employees, circuit clerk and his deputies, former circuit clerks or former  
5 circuit clerk deputies, or political subdivision or instrumentality, including school  
6 boards, charter schools as defined in Section 1 of this Act and eligible under  
7 Section 5 of this Act, charter county government, or urban-county government  
8 participating in the system by order appropriate to its governmental structure, as  
9 provided in KRS 78.530, and if the board is willing to accept the agency,  
10 organization, or corporation, the board being hereby granted the authority to  
11 determine the eligibility of the agency to participate;
- 12 (4) "School board" means any board of education participating in the system by order  
13 appropriate to its governmental structure, as provided in KRS 78.530, and if the  
14 board is willing to accept the agency or corporation, the board being hereby granted  
15 the authority to determine the eligibility of the agency to participate;
- 16 (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- 17 (6) "Employee" means every regular full-time appointed or elective officer or employee  
18 of a participating county and the coroner of a participating county, whether or not he  
19 qualifies as a regular full-time officer. The term shall not include persons engaged  
20 as independent contractors, seasonal, emergency, temporary, and part-time workers.  
21 In case of any doubt, the board shall determine if a person is an employee within the  
22 meaning of KRS 78.510 to 78.852;
- 23 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected  
24 officials of a county, or any authority of the county having the power to appoint or  
25 elect an employee to office or employment in the county;
- 26 (8) "Member" means any employee who is included in the membership of the system or  
27 any former employee whose membership has not been terminated under KRS

- 1           61.535;
- 2       (9) "Service" means the total of current service and prior service as defined in this  
3           section;
- 4       (10) "Current service" means the number of years and months of employment as an  
5           employee, on and after July 1, 1958, for which creditable compensation is paid and  
6           employee contributions deducted, except as otherwise provided;
- 7       (11) "Prior service" means the number of years and completed months, expressed as a  
8           fraction of a year, of employment as an employee, prior to July 1, 1958, for which  
9           creditable compensation was paid. An employee shall be credited with one (1)  
10          month of prior service only in those months he received compensation for at least  
11          one hundred (100) hours of work. Twelve (12) months of current service in the  
12          system shall be required to validate prior service;
- 13       (12) "Accumulated contributions" means the sum of all amounts deducted from the  
14          compensation of a member and credited to his individual account in the members'  
15          account, including employee contributions picked up after August 1, 1982, pursuant  
16          to KRS 78.610(4), together with interest credited on the amounts, and any other  
17          amounts the member shall have contributed thereto, including interest credited  
18          thereon. For members who begin participating on or after September 1, 2008,  
19          "accumulated contributions" shall not include employee contributions that are  
20          deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the  
21          funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS  
22          61.702(2)(b);
- 23       (13) "Creditable compensation" means all salary, wages, and fees, including payments  
24          for compensatory time, paid to the employee as a result of services performed for  
25          the employer or for time during which the member is on paid leave, which are  
26          includable on the member's federal form W-2 wage and tax statement under the  
27          heading "wages, tips, other compensation", including employee contributions

1 picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus,  
2 severance pay, or employer-provided payment for purchase of service credit shall be  
3 included as creditable compensation but shall be averaged over the employee's  
4 service with the system in which it is recorded if it is equal to or greater than one  
5 thousand dollars (\$1,000). If compensation includes maintenance and other  
6 perquisites, the board shall fix the value of that part of the compensation not paid in  
7 money. Living allowances, expense reimbursements, lump-sum payments for  
8 accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other  
9 items determined by the board shall be excluded. Creditable compensation shall  
10 also include amounts that are not includable in the member's gross income by virtue  
11 of the member having taken a voluntary salary reduction provided for under  
12 applicable provisions of the Internal Revenue Code. Creditable compensation shall  
13 also include elective amounts for qualified transportation fringes paid or made  
14 available on or after January 1, 2001, for calendar years on or after January 1, 2001,  
15 that are not includable in the gross income of the employee by reason of 26 U.S.C.  
16 sec. 132(f)(4). For employees who begin participating on or after September 1,  
17 2008, creditable compensation shall not include payments for compensatory time.  
18 Creditable compensation shall not include training incentive payments for city  
19 officers paid as set out in KRS 64.5277 to 64.5279. For employees who begin  
20 participating on or after August 1, 2016, creditable compensation shall exclude  
21 nominal fees paid for services as a volunteer;

22 (14) "Final compensation" means:

23 (a) For a member who begins participating before September 1, 2008, who is not  
24 employed in a hazardous position, as provided in KRS 61.592, the creditable  
25 compensation of the member during the five (5) fiscal years he was paid at the  
26 highest average monthly rate divided by the number of months of service  
27 credit during that five (5) year period multiplied by twelve (12). The five (5)

1 years may be fractional and need not be consecutive. If the number of months  
2 of service credit during the five (5) year period is less than forty-eight (48),  
3 one (1) or more additional fiscal years shall be used;

4 (b) For a member who is not employed in a hazardous position, as provided in  
5 KRS 61.592, whose effective retirement date is between August 1, 2001, and  
6 January 1, 2009, and whose total service credit is at least twenty-seven (27)  
7 years and whose age and years of service total at least seventy-five (75), final  
8 compensation means the creditable compensation of the member during the  
9 three (3) fiscal years the member was paid at the highest average monthly rate  
10 divided by the number of months of service credit during that three (3) year  
11 period multiplied by twelve (12). The three (3) years may be fractional and  
12 need not be consecutive. If the number of months of service credit during the  
13 three (3) year period is less than twenty-four (24), one (1) or more additional  
14 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the  
15 funding for this paragraph shall be provided from existing funds of the  
16 retirement allowance;

17 (c) For a member who begins participating before September 1, 2008, who is  
18 employed in a hazardous position, as provided in KRS 61.592, the creditable  
19 compensation of the member during the three (3) fiscal years he was paid at  
20 the highest average monthly rate divided by the number of months of service  
21 credit during that three (3) year period multiplied by twelve (12). The three (3)  
22 years may be fractional and need not be consecutive. If the number of months  
23 of service credit during the three (3) year period is less than twenty-four (24),  
24 one (1) or more additional fiscal years shall be used;

25 (d) For a member who begins participating on or after September 1, 2008, but  
26 prior to January 1, 2014, who is not employed in a hazardous position, as  
27 provided in KRS 61.592, the creditable compensation of the member during

1           the five (5) complete fiscal years immediately preceding retirement divided by  
2           five (5). Each fiscal year used to determine final compensation must contain  
3           twelve (12) months of service credit. If the member does not have five (5)  
4           complete fiscal years that each contain twelve (12) months of service credit,  
5           then one (1) or more additional fiscal years shall be used; or

6           (e) For a member who begins participating on or after September 1, 2008, but  
7           prior to January 1, 2014, who is employed in a hazardous position, as  
8           provided in KRS 61.592, the creditable compensation of the member during  
9           the three (3) complete fiscal years he was paid at the highest average monthly  
10          rate divided by three (3). Each fiscal year used to determine final  
11          compensation must contain twelve (12) months of service credit;

12       (15) "Final rate of pay" means the actual rate upon which earnings of an employee were  
13       calculated during the twelve (12) month period immediately preceding the  
14       member's effective retirement date, and shall include employee contributions picked  
15       up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to  
16       the system by the employer and the following equivalents shall be used to convert  
17       the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour  
18       workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half  
19       (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve  
20       (12) months, one (1) year;

21       (16) "Retirement allowance" means the retirement payments to which a member is  
22       entitled;

23       (17) "Actuarial equivalent" means a benefit of equal value when computed upon the  
24       basis of the actuarial tables adopted by the board. In cases of disability retirement,  
25       the options authorized by KRS 61.635 shall be computed by adding ten (10) years  
26       to the age of the member, unless the member has chosen the Social Security  
27       adjustment option as provided for in KRS 61.635(8), in which case the member's

1 actual age shall be used. For members who begin participating in the system prior to  
2 January 1, 2014, no disability retirement option shall be less than the same option  
3 computed under early retirement;

4 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless  
5 otherwise provided in KRS 78.510 to 78.852;

6 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the  
7 following June 30, which shall also be the plan year. The "fiscal year" shall be the  
8 limitation year used to determine contribution and benefits limits as set out in 26  
9 U.S.C. sec. 415;

10 (20) "Agency reporting official" means the person designated by the participating agency  
11 who shall be responsible for forwarding all employer and employee contributions  
12 and a record of the contributions to the system and for performing other  
13 administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

14 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean  
15 all positions that average one hundred (100) or more hours per month, determined  
16 by using the number of hours actually worked in a calendar or fiscal year, or eighty  
17 (80) or more hours per month in the case of noncertified employees of school  
18 boards, determined by using the number of hours actually worked in a calendar or  
19 school year, unless otherwise specified, except:

20 (a) Seasonal positions, which although temporary in duration, are positions which  
21 coincide in duration with a particular season or seasons of the year and that  
22 may recur regularly from year to year, in which case the period of time shall  
23 not exceed nine (9) months, except for employees of school boards, in which  
24 case the period of time shall not exceed six (6) months;

25 (b) Emergency positions that are positions that do not exceed thirty (30) working  
26 days and are nonrenewable;

27 (c) Temporary, also referred to as probationary, positions that are positions of

- 1 employment with a participating agency for a period of time not to exceed  
2 twelve (12) months and not renewable; or
- 3 (d) Part-time positions that are positions that may be permanent in duration, but  
4 that require less than a calendar or fiscal year average of one hundred (100)  
5 hours of work per month, determined by using the number of months actually  
6 worked within a calendar or fiscal year, in the performance of duty, except in  
7 case of noncertified employees of school boards, the school term average shall  
8 be eighty (80) hours of work per month, determined by using the number of  
9 months actually worked in a calendar or school year, in the performance of  
10 duty;
- 11 (22) "Alternate participation plan" means a method of participation in the system as  
12 provided for by KRS 78.530(3);
- 13 (23) "Retired member" means any former member receiving a retirement allowance or  
14 any former member who has on file at the retirement office the necessary  
15 documents for retirement benefits and is no longer contributing to the system;
- 16 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,  
17 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of  
18 pay. The rate shall be certified by the employer;
- 19 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the  
20 member in accordance with KRS 61.542 or 61.705 to receive any available benefits  
21 in the event of the member's death. As used in KRS 61.702, beneficiary shall not  
22 mean an estate, trust, or trustee;
- 23 (26) "Recipient" means the retired member, the person or persons designated as  
24 beneficiary by the member and drawing a retirement allowance as a result of the  
25 member's death, or a dependent child drawing a retirement allowance. An alternate  
26 payee of a qualified domestic relations order shall not be considered a recipient,  
27 except for purposes of KRS 61.623;



- 1 (27) "Person" means a natural person;
- 2 (28) "School term or year" means the twelve (12) months from July 1 through the  
3 following June 30;
- 4 (29) "Retirement office" means the Kentucky Retirement Systems office building in  
5 Frankfort;
- 6 (30) "Delayed contribution payment" means an amount paid by an employee for current  
7 service obtained under KRS 61.552. The amount shall be determined using the  
8 same formula in KRS 61.5525, except the determination of the actuarial cost for  
9 classified employees of a school board shall be based on their final compensation,  
10 and the payment shall not be picked up by the employer. A delayed contribution  
11 payment shall be deposited to the member's account and considered as accumulated  
12 contributions of the individual member. In determining payments under this  
13 subsection, the formula found in this subsection shall prevail over the one found in  
14 KRS 212.434;
- 15 (31) "Participating" means an employee is currently earning service credit in the system  
16 as provided in KRS 78.615;
- 17 (32) "Month" means a calendar month;
- 18 (33) "Membership date" means the date upon which the member began participating in  
19 the system as provided in KRS 78.615;
- 20 (34) "Participant" means a member, as defined by subsection (8) of this section, or a  
21 retired member, as defined by subsection (23) of this section;
- 22 (35) "Qualified domestic relations order" means any judgment, decree, or order,  
23 including approval of a property settlement agreement, that:
- 24 (a) Is issued by a court or administrative agency; and
- 25 (b) Relates to the provision of child support, alimony payments, or marital  
26 property rights to an alternate payee;
- 27 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a

1 participant, who is designated to be paid retirement benefits in a qualified domestic  
2 relations order;

3 (37) "Accumulated employer credit" means the employer pay credit deposited to the  
4 member's account and interest credited on such amounts as provided by KRS  
5 16.583 and 61.597;

6 (38) "Accumulated account balance" means:

7 (a) For members who began participating in the system prior to January 1, 2014,  
8 the member's accumulated contributions; or

9 (b) For members who began participating in the system on or after January 1,  
10 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,  
11 the combined sum of the member's accumulated contributions and the  
12 member's accumulated employer credit;

13 (39) "Volunteer" means an individual who:

14 (a) Freely and without pressure or coercion performs hours of service for an  
15 employer participating in one (1) of the systems administered by Kentucky  
16 Retirement Systems without receipt of compensation for services rendered,  
17 except for reimbursement of actual expenses, payment of a nominal fee to  
18 offset the costs of performing the voluntary services, or both; and

19 (b) If a retired member, does not become an employee, leased employee, or  
20 independent contractor of the employer for which he or she is performing  
21 volunteer services for a period of at least twenty-four (24) months following  
22 the retired member's most recent retirement date; and

23 (40) "Nominal fee" means compensation earned for services as a volunteer that does not  
24 exceed five hundred dollars (\$500) per month. Compensation earned for services as  
25 a volunteer from more than one (1) participating employer during a month shall be  
26 aggregated to determine whether the compensation exceeds the five hundred dollars  
27 (\$500) per month maximum provided by this subsection.

1       ➔Section 15. KRS 156.108 is amended to read as follows:

2       (1) For purposes of this section and KRS 160.107:

3       (a) "District of innovation" means a district that has developed a plan of  
4       innovation in compliance with this section and has been approved by the  
5       Kentucky Board of Education to be exempted from certain administrative  
6       regulations and statutory provisions to improve the educational performance  
7       of students within the district. **Beginning on the effective date of this Act, no**  
8       **new districts of innovation shall be approved by the board of education. A**  
9       **district currently approved as a district of innovation shall remain a district**  
10       **of innovation until the approval period expires;**

11       (b) **"Opportunity school" means a school that has developed a plan of**  
12       **innovation in compliance with this section and has been approved by the**  
13       **Kentucky Board of Education to be exempted from certain administrative**  
14       **regulations and statutory provisions to improve the educational**  
15       **performance of students within the district; and**

16       (c) "Innovation" means a new or creative alternative to existing instructional and  
17       administrative practices intended to improve student learning and student  
18       performance of all students[; and

19       ~~(e) "School of innovation" means a school that voluntarily participates in a~~  
20       ~~district of innovation plan to improve instruction, including waivers and~~  
21       ~~exemptions from local board of education policies, selected provisions of~~  
22       ~~Kentucky Administrative Regulations promulgated by the Kentucky Board of~~  
23       ~~Education, and selected sections of the Kentucky Revised Statutes, as~~  
24       ~~permitted under this section and KRS 160.107].~~

25       (2) The Kentucky Board of Education is hereby authorized to approve **opportunity**  
26       **schools**[districts of innovation] for the purposes of improving students' educational  
27       performance. **Opportunity schools shall be exempt from all state statutes and**

1        administrative regulations applicable to a local school board, school district, or  
 2        school, except that opportunity schools shall adhere to the same health, safety,  
 3        civil rights, and disability rights requirements as are applicable to all public  
 4        schools ~~[Districts of innovation shall be provided flexibility from selected Kentucky~~  
 5        ~~Administrative Regulations, Kentucky Revised Statutes, and local board of~~  
 6        ~~education policies for school administrators, teachers, and staff to meet the diverse~~  
 7        ~~needs of students].~~ The initial approval of an opportunity school ~~[a district of~~  
 8        ~~innovation]~~ shall be for a five (5) year period. Each renewal of an opportunity  
 9        school ~~[a district of innovation]~~ shall not exceed five (5) years and shall comply  
 10       with administrative regulations promulgated by the board pursuant to subsection (4)  
 11       of this section.

12       (3) The Kentucky Board of Education shall promulgate administrative regulations to  
 13       prescribe the conditions and procedures to be used by a school ~~[local board of~~  
 14       ~~education]~~ to be approved as an opportunity school ~~[a district of innovation].~~

15       (4) Administrative regulations promulgated by the board under subsection (3) of this  
 16       section shall specify:

17       (a) ~~[The regulatory areas which may be exempted or modified if approved by the~~  
 18       ~~state board, except as provided in KRS 160.107(2) and in addition to those~~  
 19       ~~areas identified in KRS 160.107(3);~~

20       (b) ~~]~~ The application, plan review, approval, and amendment process for a  
 21       school ~~[district];~~

22       (b) ~~(c)~~ Timelines for initial approval as an opportunity school ~~[a district of~~  
 23       ~~innovation]~~, the renewal process, and on-going evaluative procedures required  
 24       of the district;

25       (c) ~~(d)~~ Acceptable documentation of ~~[a critical mass of]~~ parental ~~[, community,~~  
 26       ~~educator,]~~ and business support and capacity to effect a change;

27       (d) ~~(e)~~ The approvals required of the plan by certain employees of a school;

1 ~~[(f) Evidence of teacher collaboration and shared leadership within the district and~~  
 2 ~~the schools to be designated as schools of innovation;]~~

3 ~~(e) [(g)]~~ The process of revocation of the designation of opportunity  
 4 school~~[district of innovation or school of innovation];~~

5 ~~(f) [(h)]~~ Reporting and oversight responsibilities of the school~~[district]~~ and the  
 6 Kentucky Department of Education;

7 ~~(g) [(i)]~~ The financial detail relating to budgets of schools and evidence of sound  
 8 fiscal management practices;

9 ~~(h) [(j)]~~ Acceptable areas of emphasis for innovation;

10 ~~[(k) Acceptable documentation of job-embedded professional development within~~  
 11 ~~the proposed innovation design;]~~ and

12 ~~(i) [(l)]~~ Other components deemed necessary to implement this section and KRS  
 13 160.107.

14 ➔ Section 16. KRS 160.107 is amended to read as follows:

15 (1) A school~~[district]~~ which is an applicant to be designated as an opportunity school~~[~~  
 16 ~~a district of innovation]~~ under KRS 156.108 shall:

17 (a) Establish~~[goals and]~~ performance targets for the opportunity school~~[district~~  
 18 ~~of innovation]~~ proposal, which shall~~[may]~~ include one (1) or more of the  
 19 following:

20 1. Significantly reducing achievement gaps among groups of public school  
 21 students by expanding learning experiences for students~~[who are~~  
 22 ~~identified as academically low-achieving];~~

23 2. Increasing student~~[pupil]~~ learning for all students as evidenced by  
 24 performance on state assessments or college entrance  
 25 examinations~~[through the implementation of high, rigorous standards~~  
 26 ~~for pupil performance];~~

27 3. Significantly increasing the number and percentage of students

- 1                    graduating high school with industry-recognized credentials,  
 2                    advanced placement credit, articulated credit, or dual credit~~[Increasing~~  
 3                    ~~the participation of students in various curriculum components and~~  
 4                    ~~instructional components within selected schools to enhance students'~~  
 5                    ~~preparation at each grade level];~~
- 6                    4. Significantly increasing the number and percentage of high school  
 7                    graduates who enroll in a postsecondary education institution or  
 8                    training program immediately following high school graduation; or~~[of~~  
 9                    ~~students who are college and career ready; and]~~
- 10                    5. Significantly increasing the number and percentage of high school  
 11                    graduates that successfully complete thirty (30) or more postsecondary  
 12                    credit hours within one (1) year after high school  
 13                    graduation~~[Motivating students at different grade levels by offering~~  
 14                    ~~more curriculum choices and student learning opportunities to parents~~  
 15                    ~~and students within the district;~~
- 16                    (b) ~~Identify changes needed in the district and schools to lead to better prepared~~  
 17                    ~~students for success in life and work];~~
- 18                    (b)~~(e)~~ Have an opportunity school plan~~[a district wide plan of innovation]~~  
 19                    that describes and provides rationale for the innovative practices to be  
 20                    employed~~[justifies which schools and innovative practices will be~~  
 21                    ~~incorporated];~~
- 22                    (c)~~(d)~~ Provide documentation of parental and local board~~[community,~~  
 23                    ~~educator, parental, and the local board's]~~ support of the proposed innovations;  
 24                    and
- 25                    ~~(e) Provide detailed information regarding the rationale of requests for waivers~~  
 26                    ~~from Kentucky Revised Statutes and administrative regulations, and~~  
 27                    ~~exemptions for selected schools regarding waivers of local board of education~~

1 policies;]

2 ~~(d)~~~~(f)~~ Document the fiscal and human resources the board will provide  
3 throughout the term of the implementation of the innovations within its plan;  
4 and

5 ~~(g) Provide other materials as required by the Kentucky Department of Education~~  
6 ~~in compliance with the state board's administrative regulations and application~~  
7 ~~procedures].~~

8 (2) The ***opportunity school***~~[ district and all schools participating in a district's~~  
9 ~~innovation plan]~~ shall:

10 (a) Ensure the same health, safety, civil rights, and disability rights requirements  
11 as are applied to all public schools;

12 (b) Ensure students meet compulsory attendance requirements under KRS  
13 158.030 and 158.100;

14 (c) Ensure that high school course offerings meet or exceed the minimum  
15 required under KRS 156.160 for high school graduation or meet early  
16 graduation requirements that may be enacted by the General Assembly;

17 (d) Ensure the student performance standards meet or exceed those adopted by the  
18 Kentucky Board of Education as required by KRS 158.685, including  
19 compliance with the statewide assessment system specified in KRS 158.6453;

20 (e) Adhere to the same financial audits, audit procedures, and audit requirements  
21 as are applied under KRS 156.265;

22 (f) Require state and criminal background checks for staff and volunteers as  
23 required of all public school employees and volunteers within the public  
24 schools and specified in KRS 160.380 and 161.148;

25 (g) Comply with open records and open meeting requirements under KRS  
26 Chapter 61;

27 (h) Comply with purchasing requirements and limitations under KRS Chapter

1 45A and KRS 156.074 and 156.480;

2 (i) Provide overall instructional time that is equivalent to or greater than that  
3 required under KRS 158.070, but which may include on-site instruction,  
4 distance or virtual learning, and work-based learning on nontraditional school  
5 days or hours; and

6 (j) Provide data to the Kentucky Department of Education as deemed necessary  
7 to generate school and district reports.

8 ~~[(3) (a) Only schools that choose to be designated as schools of innovation shall be  
9 included in a district's application.~~

10 ~~(b) 1. As used in this paragraph, "eligible employees" means employees that  
11 are regularly employed at the school and those employees whose  
12 primary job duties will be affected by the plan.~~

13 ~~2. A vote shall be taken among eligible employees in a school to determine  
14 if the school shall be an applicant as a school of innovation in a district's  
15 proposal and to approve the school's plan of innovation before it is  
16 submitted to the district. At least seventy percent (70%) of those casting  
17 votes shall vote in the affirmative in order for the school to request  
18 inclusion in the district's plan and to approve the school's plan of  
19 innovation.~~

20 ~~3. The school based decision making council shall be responsible for  
21 conducting the vote provided for in subparagraph 2. of this paragraph,  
22 which shall be by secret ballot.~~

23 ~~(c) Notwithstanding the provisions of paragraph (a) of this subsection, a local  
24 board of education may require a school that has been identified as a  
25 persistently low achieving school under KRS 160.346 to participate in the  
26 district's plan of innovation.~~

27 ~~(4) (a) With approval of the state board, a school of innovation may request and be~~



1           ~~granted waivers from all or selected provisions of KRS 160.345 relating to~~  
2           ~~school-based decision-making.~~

3           ~~(b) To be exempt from KRS 160.345, a school-based decision-making council~~  
4           ~~shall vote by secret ballot to determine if it wishes to request a waiver from~~  
5           ~~KRS 160.345 or specific provisions within that statute. Only a school that has~~  
6           ~~seventy percent (70%) or more of the teachers and staff in the school voting to~~  
7           ~~waive its rights and responsibilities under KRS 160.345 shall be eligible.~~

8           ~~(c) No local board of education or superintendent nor the Kentucky Board of~~  
9           ~~Education may compel a school to waive its rights under KRS 160.345, except~~  
10          ~~as provided in KRS 160.346.~~

11          ~~(d) Before the provisions of KRS 160.345 are waived by the Kentucky Board of~~  
12          ~~Education for a specific school, there shall be assurances that teachers,~~  
13          ~~parents, and staff in the affected school will be actively involved in the~~  
14          ~~management and decision-making operations of the schools, including input~~  
15          ~~into employment matters and selection of personnel.~~

16          ~~(5) Notwithstanding any statutes to the contrary, the Kentucky Board of Education may~~  
17          ~~approve the requests of districts of innovation to:~~

18           ~~(a) Use capital outlay funds for operational costs;~~

19           ~~(b) Hire persons for classified positions in nontraditional school and district~~  
20           ~~assignments who have bachelor's and advanced degrees from postsecondary~~  
21           ~~education institutions accredited by a regional accrediting association as~~  
22           ~~defined in KRS 164.740;~~

23           ~~(c) Employ teachers on extended employment contracts or extra duty contracts~~  
24           ~~and compensate them on a salary schedule other than the single salary~~  
25           ~~schedule;~~

26           ~~(d) Extend the school days as is appropriate within the district with compensation~~  
27           ~~for the employees as determined locally;~~

- 1       ~~(e) Establish alternative education programs and services that are delivered in~~  
2           ~~nontraditional hours and which may be jointly provided in cooperation with~~  
3           ~~another school district or consortia of districts;~~
- 4       ~~(f) Establish a virtual school within the district for delivering alternative classes~~  
5           ~~to meet high school graduation requirements;~~
- 6       ~~(g) Use a flexible school calendar;~~
- 7       ~~(h) Convert existing schools into schools of innovation; and~~
- 8       ~~(i) Modify the formula under KRS 157.360(2) for distributing support education~~  
9           ~~excellence in Kentucky funds for students in average daily attendance in~~  
10          ~~nontraditional programming time, including alternative programs and virtual~~  
11          ~~programs. Funds granted to a district shall not exceed those that would have~~  
12          ~~otherwise been distributed based on average daily attendance during regular~~  
13          ~~instructional days.]~~