

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

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

4 ➔Section 1. KRS 160.1590 is amended to read as follows:

5 As used in KRS 160.1590 to 160.1599:

6 (1) ~~["Achievement academy" has the same meaning as "public charter school";~~

7 ~~(2)]~~"Achievement gap" means the difference between performance goals and actual
8 performance on state standardized examinations and other academic performance
9 measures for subgroups of students, especially groups defined by socioeconomic
10 status, race, and ethnicity;

11 ~~(2)(3)~~ "Applicant" means an eligible person or persons, organization, or entity that
12 seeks approval from a charter school authorizer to establish a public charter school;

13 ~~(3)(4)~~ "Charter application" means a proposal from an applicant to an authorizer to
14 enter into a charter contract whereby the proposed school obtains public charter
15 school status;

16 ~~(4)(5)~~ "Charter contract" or "contract" means a fixed-term, renewable contract
17 between a charter school and an authorizer that identifies the roles, powers,
18 responsibilities, and performance expectations for each party to the contract
19 pursuant to KRS 160.1596;

20 ~~(5)(6)~~ "Charter school board of directors" means the independent board of a public
21 charter school that is party to the charter contract with the authorizer and whose
22 members have been elected or selected pursuant to the school's application;

23 ~~(6)(7)~~ "Conversion public charter school" means a public charter school that existed
24 as a noncharter public school prior to becoming a public charter school;

25 **(7) "District of location" means the public school district in which a public charter**
26 **school is physically located;**

27 (8) "Education service provider" means an education management organization, school

1 design provider, or any other partner entity with which a public charter school
 2 contracts for educational design, implementation, or comprehensive management;

3 (9) "Local school board" or "local board" means a school board exercising
 4 management and control of a local school district;

5 (10) "Local school district" means a county or independent school district as identified in
 6 KRS 160.010 and 160.020;

7 (11) "Parent" means a parent, guardian, or other person or entity having legal custody of
 8 a child;

9 (12) "Proportionate per pupil basis" means multiplying an amount of funds by a
 10 fraction, with the numerator being the average daily attendance of the public
 11 charter school, and the denominator being the average daily attendance of the
 12 school district of location;

13 (13) "Proportionate per pupil transported basis" means multiplying an amount of
 14 funds by a fraction, with the numerator being the aggregate daily attendance of
 15 students transported by a public charter school, and the denominator being the
 16 aggregate daily attendance of students transported by the school district of
 17 location;

18 (14)~~(12)~~ "Public charter school" means a public school that:

19 (a) Is a public body corporate and politic, exercising public power, including the
 20 power in name to contract and be contracted with, sue and be sued, and adopt
 21 bylaws not inconsistent with this section;

22 (b) Has autonomy over decisions, including but not limited to matters concerning
 23 finance, personnel, scheduling, curriculum, and instruction;

24 (c) Is governed by an independent board of directors;

25 (d) Is established and operating under the terms of a charter contract between the
 26 public charter school's board of directors and its authorizer;

27 (e) Is a public school to which parents choose to send their children;

- 1 (f) Is a public school that admits students on the basis of a random and open
- 2 lottery if more students apply for admission than can be accommodated;
- 3 (g) Offers a comprehensive instructional program **to enrolled students**~~[within a~~
- 4 ~~public school district];~~
- 5 (h) Operates in pursuit of a specific set of educational objectives as defined in its
- 6 charter contract; and
- 7 (i) Operates under the oversight of its authorizer in accordance with its charter
- 8 contract;

9 **(15)**~~[(13)]~~ "Public charter school authorizer" or "authorizer" means an entity or body that
 10 reviews, approves, or denies charter applications, enters into charter contracts with
 11 applicants, oversees public charter schools, and renews, does not renew, or revokes
 12 charter contracts. Authorizers **shall** include:

- 13 (a) A local school board of a local school district, **which shall only have**
- 14 **authority to approve charter applications within the boundaries of its**
- 15 **district**~~[in which a public charter school is located];~~
- 16 (b) A collaborative among local school boards that forms to set up a regional
- 17 public charter school to be located within the area managed and controlled by
- 18 those local school boards;
- 19 (c) The mayor of a consolidated local government, **who shall be considered an**
- 20 **authorizer governing board for the purposes of KRS 160.1590 to 160.1599**
- 21 **and** who may only authorize public charter schools to be physically located
- 22 within the county in which the city is located and who has submitted a written
- 23 notice to the state board that he or she intends to serve as an authorizer; and
- 24 (d) The chief executive officer of an urban-county government, **who shall be**
- 25 **considered an authorizer governing board for the purposes of KRS**
- 26 **160.1590 to 160.1599 and** who may only authorize public charter schools to
- 27 be physically located within the county in which the city is located and who

1 has submitted a written notice to the state board that he or she intends to serve
2 as an authorizer;

3 **(16)**~~[(14)]~~ "Qualified teacher" means a person certified by the Education Professional
4 Standards Board pursuant to KRS 161.028, 161.030, 161.046, or 161.048;

5 ~~[(15) "Regional achievement academy" means a public charter school that has been
6 established to serve students across multiple school districts;]~~

7 ~~(16) "Regional achievement zone" means one (1) county containing four (4) or more
8 local school districts or two (2) or more contiguous counties, each containing four
9 (4) or more local school districts;~~

10 ~~(17) "Start-up public charter school" means a public charter school that did not exist as a
11 noncharter public school prior to becoming a public charter school;]~~

12 **(17)**~~[(18)]~~ "State board" means the Kentucky Board of Education;

13 **(18)**~~[(19)]~~ "Student" means any child who is eligible for attendance in a public school in
14 Kentucky;~~[and]~~

15 **(19)**~~[(20)]~~ **"Urban academy" means a public charter school that includes an**
16 **enrollment preference for students who live in close proximity to the school as**
17 **defined in the charter contract; and**

18 **(20)** "Virtual public charter school" means a public charter school that offers educational
19 services primarily or completely through an online program.

20 ➔Section 2. KRS 160.1591 is amended to read as follows:

21 (1) The General Assembly hereby finds and declares that:

22 (a) Reducing achievement gaps in Kentucky is necessary for the state to realize its
23 workforce and economic development potential;

24 (b) Past and current measures have been insufficient for making progress toward
25 reducing the state's achievement gaps;

26 (c) Additional public school options are necessary to help reduce socioeconomic,
27 racial, and ethnic achievement gaps; and

1 (d) The demand exists for high-quality public charter schools in the
2 Commonwealth.

3 (2) The General Assembly hereby establishes a public charter school project to benefit
4 parents, teachers, and community members by creating new, innovative, and more
5 flexible ways of educating all children within the public school system and by
6 advancing a renewed commitment to the mission, goals, and diversity of public
7 education. The purposes of the public charter school initiative are to:

- 8 (a) Improve student learning outcomes by creating additional high-performing
9 schools with high standards for student performance;
- 10 (b) Encourage the use of different, high-quality models of teaching, governing,
11 scheduling, or other aspects of schooling that meet a variety of student needs;
- 12 (c) Close achievement gaps for low-performing groups of public school students;
- 13 (d) Allow schools freedom and flexibility in exchange for exceptional levels of
14 results-driven accountability;
- 15 (e) Increase high-quality educational opportunities within the public education
16 system for all students, especially those at risk of academic failure; and
- 17 (f) Provide students, parents, community members, and local entities with
18 expanded opportunities for involvement in the public education system.

19 (3) Beginning in academic year 2022-2023~~[2017-2018]~~, any authorizer may authorize
20 an unlimited number of public charter schools~~[within the boundary of the local~~
21 ~~school district]~~.

22 (4) A public charter school shall not be a virtual public charter school.

23 (5) ~~[(a) A public charter school authorized by a local school board or collaborative~~
24 ~~may enroll students who reside within the boundaries of the district or districts~~
25 ~~represented by the local school board or collaborative.]~~

26 (a)~~[(b)]~~ Enrollment preference for a conversion public charter school shall be
27 given to students who attended the school the previous school year. If the

number of students enrolled does not exceed the capacity of the school, secondary preference shall be given to students who reside within the district boundary in which the public charter school is located.

~~(b)~~~~(c)~~ Enrollment preference for public charter schools shall be given to students enrolled in the public charter school the previous year and to siblings of students already enrolled in the school. ~~The~~~~An~~ enrollment preference for returning students shall exclude those students from entering into a lottery, as identified in paragraph (f) of this subsection.

(c) Enrollment preference for public charter schools identified as an urban academy in the charter contract shall be given to students who live in close proximity to the school, as governed by the charter contract.

(d) Enrollment preference may be given to the children of the public charter school's board of directors and full-time employees of the public charter school provided they constitute no more than ten percent (10%) of the total student population.

(e) A public charter school may allow an enrollment preference for students who meet federal eligibility requirements for free or reduced-price meals and students who attend persistently low-achieving noncharter public schools.

(f) If capacity is insufficient to enroll all students who wish to attend any specific grade level or program at a public charter school, the school shall select students through a randomized and transparent lottery. **The lottery process may allow for siblings in a lottery or different lotteries to be admitted together.**

~~((6) (a) A public charter school established within the boundaries of a regional achievement zone shall be a regional achievement academy.~~

~~(b) 1. A regional achievement academy may be authorized by a single local school board within the regional achievement zone or by a collaborative~~

1 ~~of local school boards within the regional achievement zone.~~

2 ~~2.—A regional achievement academy authorized by a single local school~~
 3 ~~board shall be located within the boundaries of the authorizing local~~
 4 ~~school district.~~

5 ~~3.—A regional achievement academy authorized by a collaborative of local~~
 6 ~~school boards shall be located within the regional achievement zone.~~

7 ~~(c)—A regional achievement academy may only enroll students who reside within~~
 8 ~~the boundaries of its regional achievement zone.~~

9 ~~(d)—Enrollment preference in a regional achievement academy may be given to~~
 10 ~~students who reside within the boundaries of the local school district where~~
 11 ~~the regional achievement academy is located.]~~

12 (6)~~[(7)]~~ Consistent with the requirements of KRS 160.1590 to 160.1599 and 161.141,
 13 the state board shall promulgate administrative regulations to guide student
 14 application, lottery, and enrollment in public charter schools.

15 ➔Section 3. KRS 160.1592 is amended to read as follows:

16 (1) A public charter school shall be part of the state's system of public education but
 17 shall be exempt from all statutes and administrative regulations applicable to the
 18 state board, a local school district, or a school, except the public charter school shall
 19 adhere to the same health, safety, civil rights, and disability rights requirements as
 20 are applied to all public schools and to all requirements otherwise identified in KRS
 21 160.1590 to 160.1599 and 161.141.

22 (2) A public charter school may elect to comply with any one (1) or more provisions of
 23 any state statute or administrative regulation.

24 (3) A public charter school shall:

25 (a) Be governed by a board of directors;

26 (b) Be established and operate in pursuit of a specific set of educational objectives
 27 as defined in the charter contract between the school's board of directors and

- 1 its authorizer;
- 2 (c) Ensure students meet compulsory attendance requirements under KRS
- 3 158.030 and 158.100 **and record student enrollment and attendance in a**
- 4 **manner necessary for participation in the fund to support education**
- 5 **excellence in Kentucky;**
- 6 (d) Hire only qualified teachers to provide student instruction;
- 7 (e) Ensure high school course offerings meet or exceed the minimum required
- 8 under KRS 156.160 for high school graduation;
- 9 (f) Design its education programs to meet or exceed the student performance
- 10 standards adopted by the Kentucky Board of Education;
- 11 (g) Ensure students' participation in required state assessment of student
- 12 performance, as required under KRS 158.6453;
- 13 (h) Adhere to all generally accepted accounting principles and adhere to the same
- 14 financial audits, audit procedures, and audit requirements as are applied to
- 15 other public schools under KRS 156.265;
- 16 (i) Utilize the same system for reporting student information data and financial
- 17 data as is utilized by other school districts across the state;
- 18 (j) Require criminal background checks for staff and volunteers, including
- 19 members of its governing board, as required of all public school employees
- 20 and volunteers within the public schools specified in KRS 160.380 and
- 21 161.148;
- 22 (k) Comply with open records and open meeting requirements under KRS
- 23 Chapter 61;
- 24 (l) Comply with purchasing requirements and limitations under KRS Chapter
- 25 45A and KRS 156.074 and 156.480, or provide to the public charter school
- 26 board of directors a detailed monthly report of school purchases over ten
- 27 thousand dollars (\$10,000), including but not limited to curriculum, furniture,

- 1 and technology;
- 2 (m) Provide instructional time that is at least equivalent to the student instructional
- 3 year specified in KRS 158.070;
- 4 (n) Provide data to the Kentucky Department of Education and the authorizer as
- 5 required by the Kentucky Department of Education or authorizer to generate a
- 6 school report card under KRS 158.6453;
- 7 (o) Operate under the oversight of its authorizer in accordance with its charter
- 8 contract and application;
- 9 (p) As a public body corporate, have all the powers necessary for carrying out the
- 10 terms of its charter contract, including the power to:
- 11 1. Receive and disburse funds for school purposes;
- 12 2. Secure appropriate insurance and enter into contracts and leases;
- 13 3. Contract with an education service provider, provided the board of
- 14 directors of the public charter school retains oversight and authority over
- 15 the school;
- 16 4. Incur debt in reasonable anticipation of the receipt of public or private
- 17 funds;
- 18 5. Pledge, assign, or encumber its assets to be used as collateral for loans
- 19 or extensions of credit;
- 20 6. Solicit and accept any gifts or grants for school purposes, subject to
- 21 applicable laws and the terms of its charter;
- 22 7. Acquire real property for use as its facility or facilities, from public or
- 23 private sources; and
- 24 8. Employ or contract with other entities for the provision of teaching,
- 25 professional, and support staff, as needed;~~[-and]~~
- 26 (q) Conduct an admissions lottery if capacity is insufficient to enroll all students
- 27 who wish to attend the school and ensure that every student has a fair

opportunity to be considered in the lottery and that the lottery is competently conducted, equitable, randomized, transparent, impartial, and in accordance with targeted student population and service community as identified in KRS 160.1593(3) so that students are accepted in a public charter school without regard to ethnicity, national origin, religion, sex, income level, disabling condition, proficiency in the English language, or academic or athletic ability ;

and

(r) Establish a food program for students that, at a minimum, provides free and reduced-price meals to students identified as qualifying for such meals under federal guidelines for the National School Lunch Program.

(4) For purposes of this subsection, a member of the board of directors of a public charter school shall be considered an officer under KRS 61.040 and shall be removed from office under the statute's provisions.

(5) A local school district shall provide or publicize to parents and the general public information about public charter schools authorized by the local school district as an enrollment option within the district to the same extent and through the same means that the school district provides and publicizes information about noncharter public schools in the district.

(6) A local school district shall not assign or require any student enrolled in the local school district to attend a public charter school.

(7) (a) For purposes of ensuring compliance with this section and the charter under which it operates, a public charter school shall be administered by a public charter school board of directors accountable to the authorizer in a manner agreed to in the charter contract, as negotiated between the public charter school applicant and the authorizer.

(b) The board of directors of a public charter school shall consist of a minimum of two (2) parents of students attending any public charter school operating

1 under the direction of the board of directors.

2 (c) A member of the board of directors of a public charter school shall:

3 1. Not be an employee of that school or of an education service provider
4 that provides services to the school; and

5 2. File full disclosure reports and identify any potential conflicts of interest,
6 relationships with management organizations, and relationships with
7 family members who are applying to or are employed by the public
8 charter school or have other business dealings with the school, the
9 management organization of the school, or any other public charter
10 school and shall make these documents available online through the
11 authorizer.

12 (8) Collectively, members of the board of directors shall possess expertise in
13 leadership, curriculum and instruction, law, and finance.

14 (9) (a) A board of directors may hold one (1) or more charter contracts.

15 (b) Each public charter school under contract with a board of directors shall be
16 separate and distinct from any other public charter school under contract with
17 the board of directors.

18 (10) The board of directors shall be responsible for the operation of its public charter
19 school, including but not limited to preparation of a budget, contracting for services,
20 school curriculum, and personnel matters.

21 (11) The board of directors shall:

22 (a) Ensure that all meetings of the board are publicized in advance according to
23 the rules governing the authorizer and are open to the public at times
24 convenient to parents; and

25 (b) Require any education service provider contracted with the board to provide a
26 monthly detailed budget to the board.

27 (12) (a) A public charter school may negotiate and contract with its authorizer or any

1 third party for the use, operation, and maintenance of a building and grounds,
2 liability insurance, and the provision of any service, activity, or undertaking
3 that the public charter school is required to perform in order to carry out the
4 educational program described in its charter. Any services for which a public
5 charter school contracts with a school district shall be provided by the district
6 at cost and shall be negotiated as a separate agreement after final charter
7 contract negotiations. The public charter school shall have standing to sue and
8 be sued in its own name for the enforcement of any contract under color of
9 authority granted by KRS 160.1590 to 160.1599. A public charter school may
10 own, rent, or lease its space.

11 (b) Any entity contracted to provide educational services or goods to a public
12 charter school in an amount exceeding ten thousand dollars (\$10,000) shall be
13 subject to the Open Records Act under KRS Chapter 61 for all records
14 associated with the public charter school contract.

15 (13) A public charter school shall be exempt from administrative regulations governing
16 public schools for purposes of zoning and local land use regulation. The Finance
17 and Administration Cabinet shall annually publish a list of vacant and unused
18 buildings and vacant and unused portions of buildings that are owned by the state
19 and that may be suitable for the operation of a public charter school and shall
20 provide the list to applicants for public charter schools and to existing public charter
21 schools upon request.

22 (14) A public charter school shall be nonsectarian in its programs, admissions policies,
23 employment practices, partnerships, and all other operations and shall not have
24 entrance requirements or charge tuition or fees, except that a public charter school
25 may require the payment of fees on the same basis and to the same extent as other
26 public schools.

27 (15) A public charter school shall not discriminate against any student, employee, or any

1 other person on the basis of ethnicity, religion, national origin, sex, disability,
2 special needs, athletic ability, academic ability, or any other ground that would be
3 unlawful if done by a public school.

4 (16) A public charter school shall serve one (1) or more of grades kindergarten through
5 twelve (12) and shall limit admission to students within the grade levels served.

6 (17) A public charter school shall provide programs and services to a student with a
7 disability in accordance with the student's individualized education program and all
8 federal and state laws, rules, and regulations. A public charter school shall deliver
9 the services directly or contract with another provider to deliver the services. A
10 public charter school shall establish an admissions and release committee at the
11 school and the committee shall:

12 (a) Develop an individualized education program for each student with a
13 disability; or

14 (b) Review, revise, or utilize a student's individualized education program
15 completed by the admissions and release committee of the student's former
16 school. If needed, the committee shall work collaboratively with staff from the
17 student's former school to review and revise a student's existing individualized
18 education program.

19 (18) (a) A public charter school shall be eligible to participate in state-sponsored or
20 district-sponsored interscholastic athletics, academic programs, competitions,
21 awards, scholarships, and recognition programs for students, educators,
22 administrators, and schools to the same extent as noncharter public schools.
23 Participants shall comply with eligibility requirements of students enrolled in
24 noncharter public schools.

25 (b) A public charter school has no obligation to provide extracurricular activities
26 or access to facilities for students enrolled in the public charter school.

27 (c) If a public charter school sponsors interscholastic athletic activities, students

1 enrolled in the public charter school shall be considered eligible to participate
2 in interscholastic competitions by the Kentucky Board of Education or the
3 agency designated by the state board to manage interscholastic athletics, if
4 other eligibility requirements are met. A student enrolled in a public charter
5 school that sponsors an interscholastic athletic activity shall be ineligible to
6 participate in that activity at any other school.

7 (d) If a public charter school does not offer any interscholastic athletic activity
8 sanctioned by the Kentucky Board of Education or the agency designated by
9 the state board to manage interscholastic athletics, a student enrolled in the
10 public charter school shall be eligible to participate at the school the student
11 would attend based on the student's residence.

12 (e) If a public charter school offers any interscholastic athletic activity sanctioned
13 by the Kentucky Board of Education or the agency designated by the state
14 board to manage interscholastic athletics, a student enrolled in the public
15 charter school shall be ineligible to participate in any interscholastic athletic
16 activity at any other school.

17 (19) Nothing in this section shall be construed to prevent the establishment of a single-
18 sex public charter school consistent with federal regulations or a public charter
19 school designed to provide expanded learning opportunities for students at risk of
20 academic failure or for students with special needs.

21 (20) The authorizer of a public charter school shall semiannually consider for approval a
22 public charter school's proposed amendments to a charter contract. The authorizer
23 may consider requests for amendments more frequently upon mutual agreement
24 between the authorizer and the public charter school. The denial of an amendment
25 request is appealable pursuant to KRS 160.1595.

26 (21) If a student who was previously enrolled in a public charter school enrolls in
27 another public school located within the state, the new school shall accept any

credits earned and grades received by the student in courses or instructional programs while enrolled in the public charter school in a uniform and consistent manner and according to the same criteria that are used to accept credits from other public schools.

(22) A teacher employed by a local board of education under a continuing service contract and offered employment with a public charter school shall be granted a two (2) year leave of absence to teach in a public charter school. The leave of absence shall commence on the first day of service to the public charter school. During the first or second year of the leave of absence, the teacher may notify the local board of education that the teacher intends to return to a teaching position in the local school district. The teacher shall be allowed to return to a teaching position in the local school district at the appropriate salary for the teacher's years of experience and educational level. After two (2) years on leave, the relationship between the teacher and the local board of education shall be determined by the local board and the local board shall notify the teacher of the decision.

➔Section 4. KRS 160.1593 is amended to read as follows:

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

(2) An applicant shall submit an application for approval of a public charter school to an authorizer and **shall also submit a written notification of the application** simultaneously to the state board **as a record of the filing**. Charter authorizers shall accept and document the date and time of receipt of all charter applications.

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

(a) A mission statement and a vision statement for the public charter school, including the targeted student population and the community the school hopes

to serve, and shall outline how the public charter school will establish resident and nonresident enrollment policies which shall be subject to the same limitations as a school district;

(b) A description of the school's proposed academic program that is aligned with state standards, and that implements one (1) or more of the purposes described in KRS 160.1591, and the instructional methods that will support the implementation and success of the program;

(c) 1. The student achievement goals for the public charter school's educational program and the chosen methods of evaluating whether students have attained the skills and knowledge specified for those goals; and

2. An explanation of how the school's proposed educational program is likely to improve the achievement of traditionally underperforming students, serve the needs of students with individualized education programs, or provide students with career readiness education opportunities~~[in the local school district];~~

(d) The school's plan for using external, internal, and state-required assessments to measure student progress on the performance framework as identified in KRS 160.1596, and how the school will use data to drive instruction and continued school improvement;

(e) The proposed governance structure of the school, including a list of members of the initial board of directors, a draft of bylaws that include the description of the qualifications, terms, and methods of appointment or election of directors, and the organizational structure of the school that clearly presents lines of authority and reporting between the board of directors, school administrators, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in

1 managing the school;

2 (f) 1. Plans and timelines for student recruitment and enrollment, including
 3 policies and procedures for conducting transparent and random
 4 admission lotteries that are open to the public, and that are consistent
 5 with KRS 160.1591 and 160.1592;~~[-]~~

6 2. An application shall demonstrate a plan to recruit at least one hundred
 7 (100) students, unless the application is focused on serving special needs
 8 or at-risk students or students seeking career readiness education; and

9 3. If the application is for a public charter school located in a district
 10 with total student enrollment of seven thousand five hundred (7,500)
 11 or less, then the application shall include a memorandum of
 12 understanding with the district of location endorsing the application.
 13 However, if the application is for an urban academy located within a
 14 county where the total enrollment of all independent school districts is
 15 greater than seven thousand five hundred (7,500), then this
 16 subparagraph shall not apply;

17 (g) A proposed five (5) year budget, including the start-up year and projections
 18 for four (4) additional years with clearly stated assumptions;

19 (h) Draft fiscal and internal control policies for the public charter school;

20 (i) Requirements and procedures for programmatic audits and assessments at
 21 least once annually, with audits and assessments being comparable in scope to
 22 those required of noncharter public schools;

23 (j) A draft handbook that outlines the personnel policies of the public charter
 24 school, including the criteria to be used in the hiring of qualified teachers,
 25 school administrators, and other school employees, a description of staff
 26 responsibilities, and the school's plan to evaluate personnel on an annual
 27 basis;

- 1 (k) A draft of the policies and procedures by which students may be disciplined,
2 including students with disabilities, which shall be consistent with the
3 requirements of due process and with state and federal laws and regulations
4 governing the placement of students with disabilities;
- 5 (l) A description of the facilities to be used by the public charter school,
6 including the location of the school, if known, and how the facility supports
7 the implementation of the school's academic program. If the facilities to be
8 used by the proposed school are not known at the time the application is
9 submitted, the applicant shall notify the authorizer within ten (10) business
10 days of acquiring facilities for the school. The school shall obtain certification
11 of occupancy for the facilities at least thirty (30) days prior to the first student
12 instructional day;
- 13 (m) The proposed ages and grade levels to be served by the public charter school,
14 including the planned, minimum, and maximum enrollment per grade per
15 year;
- 16 (n) The school calendar and school day schedule, which shall total at least the
17 equivalent to the student instructional year specified in KRS 158.070;
- 18 (o) Types and amounts of insurance coverage to be obtained by the public charter
19 school, which shall include adequate insurance for liability, property loss, and
20 the personal injury of students comparable to other schools within the local
21 school district operated by the local school board;
- 22 (p) A description of the health and food services to be provided to students
23 attending the school;
- 24 (q) Procedures to be followed in the case of the closure or dissolution of the
25 public charter school, including provisions for the transfer of students and
26 student records to the **district of location**~~[local school district in which the~~
27 ~~public charter school is located]~~ or to another charter school located within the

- 1 local school district and an assurance and agreement to payment of net assets
2 or equity, after payment of debts as specified in KRS 160.1598;
- 3 (r) A code of ethics for the school setting forth the standards of conduct expected
4 of its board of directors, officers, and employees;
- 5 (s) Plans for recruiting and developing staff;
- 6 (t) A staffing chart for the school's first year and a staffing chart for the term of
7 the charter;
- 8 (u) A plan for parental and community involvement in the school, including the
9 role of parents in the administration and governance of the school;
- 10 (v) The public charter school's plan for identifying and successfully serving
11 students with disabilities, students who are English language learners,
12 bilingual students, and students who are academically behind and gifted,
13 including but not limited to the school's plan for compliance with all
14 applicable federal and state laws and regulations;
- 15 (w) A description of cocurricular and extracurricular programs and how they will
16 be funded and delivered;
- 17 (x) The process by which the school will resolve any disputes with the authorizer;
18 and
- 19 (y) A detailed start-up plan, including financing, tasks, timelines, and individuals
20 responsible for carrying out the plan.
- 21 (4) If the public charter school applicant intends to contract with an education service
22 provider for educational program implementation or comprehensive management,
23 the application shall additionally require the applicant to:
- 24 (a) Provide evidence of success in serving student populations similar to the
25 targeted population, including demonstrated academic achievement as well as
26 successful management of nonacademic school functions, if applicable;
- 27 (b) Provide student performance data and financial audit reports for all current

- 1 and past public charter schools;
- 2 (c) Provide documentation of and explanation for any actions taken against any of
- 3 its public charter schools for academic, financial, or ethical concerns;
- 4 (d) Provide evidence of current capacity for growth;
- 5 (e) Provide a term sheet setting forth:
 - 6 1. The proposed duration of the service contract;
 - 7 2. The annual proposed fees to be paid to the education service provider;
 - 8 3. The roles and responsibilities of the board of directors, the school staff,
 - 9 and the education service provider;
 - 10 4. The scope of services and resources to be provided by the education
 - 11 service provider;
 - 12 5. Performance evaluation measures and timelines;
 - 13 6. Compensation structure, including clear identification of all fees to be
 - 14 paid to the education service provider;
 - 15 7. Methods of contract oversight and enforcement;
 - 16 8. Investment disclosure; and
 - 17 9. Conditions for renewal and termination of the contract; and
- 18 (f) Disclose and explain any existing or potential conflicts of interest between the
- 19 board of directors and the proposed education service provider or any
- 20 affiliated business entities.

21 ➔Section 5. KRS 160.1594 is amended to read as follows:

- 22 (1) A public charter school authorizer shall:
 - 23 (a) Fulfill the expectations and intent of this section and KRS 160.1590 to
 - 24 160.1599 and 161.141;
 - 25 (b) Demonstrate public accountability and transparency in all matters concerning
 - 26 its charter-authorizing practices, decisions, and expenditures;
 - 27 (c) **Establish an annual timeline consistent with statutory guidelines with**

- 1 **deadlines to** solicit, invite, **accept**, and evaluate applications from applicants;
- 2 (d) Approve new and renewal charter applications that meet the requirements of
- 3 this section and KRS 160.1593;
- 4 (e) Decline to approve charter applications that:
- 5 1. Fail to meet the requirements of this section and KRS 160.1593; or
- 6 2. Are for a school that would be wholly or partly under the control or
- 7 direction of any religious denomination;
- 8 (f) Negotiate and execute in good faith a charter contract with each public charter
- 9 school it authorizes;
- 10 (g) Monitor the performance and compliance of public charter schools according
- 11 to the terms of the charter contract;
- 12 (h) Determine whether each charter contract it authorizes merits renewal or
- 13 revocation; and
- 14 (i) Establish and maintain policies and practices consistent with the principles
- 15 and professional standards for authorizers of public charter schools, including
- 16 standards relating to:
- 17 1. Organizational capacity and infrastructure;
- 18 2. Soliciting and evaluating applications;
- 19 3. Performance contracting;
- 20 4. Ongoing public charter school oversight and evaluation; and
- 21 5. Charter approval, renewal, and revocation decision making.
- 22 (2) In reviewing applications, the public charter school authorizer is encouraged to give
- 23 preference to applications that demonstrate the intent, capacity, and capability to
- 24 provide comprehensive learning experiences to:
- 25 (a) Students identified by the applicants as at risk of academic failure; ~~and~~
- 26 (b) Students with special needs as identified in their individualized education
- 27 program as defined in KRS 158.281; **and**

1 **(c) Students who seek career readiness education opportunities.**

- 2 (3) After a charter applicant submits a written application to establish a public charter
 3 school, the authorizer shall:
- 4 (a) Complete a thorough review process;
 - 5 (b) Conduct an in-person interview with the applicant group;
 - 6 (c) Provide an opportunity in a public forum for local residents to provide input
 7 and learn about the charter application;
 - 8 (d) Provide a detailed analysis of the application to the applicant or applicants
 9 **which shall include any identified deficiencies;**
 - 10 (e) Allow an applicant a reasonable time to provide additional materials and
 11 amendments to its application to address any identified deficiencies,
 12 **including allowing an applicant to request a sixty (60) day extension to seek**
 13 **technical assistance in curing deficiencies from the state board under**
 14 **Section 6 of this Act;** and
 - 15 (f) Approve or deny a charter application based on established objective criteria
 16 or request additional information.
- 17 (4) In deciding to approve a charter application, the authorizer shall:
- 18 (a) Grant charters only to applicants that possess competence in all elements of
 19 the application requirements identified in this section and KRS 160.1593;
 - 20 (b) Base decisions on documented evidence collected through the application
 21 review process; and
 - 22 (c) Follow charter-granting policies and practices that are transparent, based on
 23 merit, and avoid conflicts of interest.
- 24 (5) **Unless an extension is requested under subsection (3) of this section,** no later than
 25 sixty (60) days following the filing of the charter application, the authorizer shall
 26 approve or deny the charter application. The authorizer shall adopt by resolution all
 27 charter approval or denial decisions in an open meeting of the authorizer's board of

1 directors.

2 (6) Any failure to act on a charter application **within sixty (60) days of the established**
 3 **application submission deadline** shall be deemed **an approval**~~[a denial]~~ by the
 4 authorizer.

5 (7) An application shall be approved if the public charter school authorizer finds that:

6 (a) The public charter school described in the application meets the requirements
 7 established by this section and KRS 160.1590 and 160.1592;

8 (b) The applicant demonstrates the ability to operate the school in an
 9 educationally and fiscally sound manner; and

10 (c) Approving the application is likely to improve student learning and
 11 achievement and further the purposes established by KRS 160.1591.

12 (8) An authorizer shall provide a written explanation within five (5) days **of adopting a**
 13 **resolution**, for the public record, stating its reasons for approval or denial of a
 14 charter application, including a thorough explanation of how the charter application
 15 either meets or fails to meet established objective criteria for making charter
 16 application decisions, and the authorizing process which the authorizer used to
 17 review, evaluate, and make its final decision.

18 (9) An authorizer's charter application approval shall be submitted to the Kentucky
 19 Department of Education **as written notice**~~[for final approval by the commissioner~~
 20 ~~of education]~~.

21 (10) When an authorizer that is a local school board or a collaborative of local school
 22 boards receives a charter school application, any member of the board or boards
 23 who has not received charter authorization training within twelve (12) months
 24 immediately preceding the date the application was received shall receive six (6)
 25 hours of in-service training prior to evaluating the charter application. Except for
 26 training provided prior to July 15, 2020, the training shall be in addition to the
 27 annual in-service training required under KRS 160.180, and each board shall select

the trainer to deliver the training to its members. Charter authorizer training shall not be required of any local school board member until a charter application is submitted to the board or boards.

➔ Section 6. KRS 160.1595 is amended to read as follows:

- (1) **Any applicant or board of directors of a public charter school may request technical assistance from the Kentucky Department of Education to address deficiencies identified by an authorizer. The department shall respond within thirty (30) days of the request.**

- (2) (a)** The state board, upon receipt of a notice of appeal~~[or upon its own motion]~~, shall review decisions of any **other** authorizer concerning the approval or denial of a public charter school application, the nonrenewal or revocation of a public charter school's contract, the denial of a public charter school's request to consider a charter amendment, or the unilateral imposition of conditions **in the charter contract**, in accordance with the provisions of this section.

- ~~**(b) (2)**~~ A charter applicant or approved public charter school who wishes to appeal a decision of an authorizer concerning a charter application, a charter amendment, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, shall provide the state board and the authorizer with a notice of appeal within thirty (30) days after the authorizer's decision. The **appellant**~~[person bringing the appeal]~~ shall limit the grounds of the appeal to the grounds for the denial of or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions, whichever is being appealed, specified by the authorizer. The notice shall include a brief statement of the reasons the public charter school applicant or public charter school contends the authorizer's denial of or nonrenewal or revocation of a charter, or imposition of conditions was in error.

~~(c)(3)~~ If the notice of appeal~~, or the motion to review by the state board,~~
relates to an authorizer's decision to deny, refuse to renew, or revoke a charter
or to an authorizer's unilateral imposition of conditions that are unacceptable
to the charter applicant or public charter school, the appeal and review process
shall be as follows:

~~1.(a)~~ Within forty-five (45) days after receipt of the notice of appeal ~~or~~
~~the making of a motion to review by the state board~~ and after
reasonable public notice, the state board, at a public hearing which may
be held in the school district in which the proposed public charter school
has applied for a charter **or where the public charter school exists**, shall
review the decision of the authorizer and make its findings~~;~~

2. The state board shall determine:

**a. If the final decision of the authorizer was contrary to the best
interest of the students or community; and**

**b. If the application failed to satisfy the requirements of
subsections (3) and (4) of Section 4 of this Act;**

3. If the state board finds that the authorizer's decision was contrary to the
best interest of the students or community **and the application satisfies
the statutory requirements**, the state board shall ~~remand such decision
to the authorizer with written instructions for reconsideration thereof.~~
~~The instructions shall include specific recommendations concerning the
matters requiring reconsideration;~~

~~(b) Within thirty (30) days following the remand of a decision to the
authorizer and after reasonable public notice, the authorizer, at a public
hearing, shall reconsider its decision and make a final decision;~~

~~(c) If the authorizer's final decision is still to deny, refuse to renew, or
revoke a charter or to unilaterally impose conditions unacceptable to the~~

1 charter applicant, a second notice of appeal may be filed with the State
 2 Board of Education within thirty (30) days following such final decision;
 3 ~~(d) Within thirty (30) days following receipt of the second notice of appeal~~
 4 ~~or the making of a motion for a second review by the State Board of~~
 5 ~~Education and after reasonable public notice, the state board, at a public~~
 6 ~~hearing shall determine if the final decision of the authorizer was~~
 7 ~~contrary to the best interest of the students or community. If such a~~
 8 ~~finding is made, the state board shall~~ remand such final decision to the
 9 authorizer with instructions to approve the charter application or
 10 amendment, or to renew or reinstate the charter, or to approve or
 11 disapprove conditions imposed. The decision of the state board shall be
 12 a final action subject to judicial review in the Circuit Court
 13 encompassing the school district in which the public charter school is
 14 located; and

15 ~~4.[(e)]~~ Charters granted to applicants by authorizers after a successful
 16 appeal to the state board, as outlined in subparagraph~~[paragraph] 3.[(d)]~~
 17 of this paragraph~~[subsection]~~, shall be provided joint oversight by the
 18 authorizer and the state board for, at a minimum, the first five (5) years
 19 of the school's operation, and until the authorizer, state board, and public
 20 charter school agree that charter oversight may be provided solely by the
 21 authorizer. The state board shall be a formal participant in all
 22 authorizing decision making concerning the public charter school during
 23 that period, and shall be included in all communication between the
 24 public charter school and the authorizer.

25 ~~[(4) (a) Within ten (10) days of taking action to approve or deny a charter~~
 26 ~~application that has been remanded back to the authorizer for~~
 27 ~~reconsideration, the authorizer shall notify the state board of the action~~

1 ~~taken.~~

2 ~~(b) The authorizer shall provide a report to the charter applicant, the state~~
 3 ~~board, and the Education and Workforce Development Cabinet~~
 4 ~~simultaneously and shall include a copy of the resolution adopted by the~~
 5 ~~authorizer's board of directors identifying any action taken, the reason~~
 6 ~~for the decision, and an assurance as to compliance with all of the~~
 7 ~~procedural requirements and application elements found in this section~~
 8 ~~and KRS 160.1591 and 160.1593.]~~

9 ➔ Section 7. KRS 160.1596 is amended to read as follows:

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

- 1 disburse funds to the public charter school by the authorizer;
- 2 6. The process the authorizer will use to provide ongoing oversight,
- 3 including a process to conduct annual site visits;
- 4 7. The specific commitments of the public charter school authorizer
- 5 relating to its obligations to oversee, monitor the progress of, and
- 6 supervise the public charter school;
- 7 8. The process and criteria the authorizer will use to annually monitor and
- 8 evaluate the overall academic, operating, and fiscal conditions of the
- 9 public charter school, including the process the authorizer will use to
- 10 oversee the correction of any deficiencies found in the annual review;
- 11 9. The process for revision or amendment to the terms of the charter
- 12 contract agreed to by the authorizer and the board of directors of the
- 13 public charter school;
- 14 10. The process agreed to by the authorizer and the board of directors of the
- 15 public charter school that identifies how disputes between the authorizer
- 16 and the board will be handled; and
- 17 11. Any other terms and conditions agreed to by the authorizer and the board
- 18 of directors, including pre-opening conditions. Reasonable conditions
- 19 shall not include enrollment caps or operational requirements that place
- 20 undue constraints on a public charter school or are contradictory to the
- 21 provisions of KRS 160.1590 to 160.1599 and 161.141. Such conditions,
- 22 even when incorporated in a charter contract, shall be considered
- 23 unilaterally imposed conditions.
- 24 (d) 1. The performance provisions within a charter contract shall be based on a
- 25 performance framework that sets forth the academic and operational
- 26 performance indicators, measures, and metrics to be used by the
- 27 authorizer to evaluate each public charter school. The performance

- 1 framework shall include at a minimum indicators, measures, and metrics
 2 for:
- 3 a. Student academic proficiency;
 - 4 b. Student academic growth;
 - 5 c. Achievement gaps in both student proficiency and student growth
 6 for student subgroups, including race, sex, socioeconomic status,
 7 and areas of exceptionality;
 - 8 d. Student attendance;
 - 9 e. Student suspensions;
 - 10 f. Student withdrawals;
 - 11 g. Student exits;
 - 12 h. Recurrent enrollment from year to year;
 - 13 i. College or career readiness at the end of grade twelve (12);
 - 14 j. Financial performance and sustainability; and
 - 15 k. Board of directors' performance and stewardship, including
 16 compliance with all applicable statutes, administrative regulations,
 17 and terms of the charter contract.
- 18 2. The performance framework shall allow the inclusion of additional
 19 rigorous, valid, and reliable indicators proposed by a public charter
 20 school to augment external evaluations of its performance. The proposed
 21 indicators shall be consistent with the purposes of KRS 160.1590 to
 22 160.1599 and 161.141 and shall be negotiated with the authorizer.
- 23 3. The performance framework shall require the disaggregation of student
 24 performance data by subgroups, including race, sex, socioeconomic
 25 status, and areas of exceptionality.
- 26 4. The authorizer shall be responsible for collecting, analyzing, and
 27 reporting to the state board all state-required assessment and

1 achievement data for each public charter school it oversees.

2 (e) Annual student achievement performance targets shall be set, in accordance
3 with the state accountability system, by each public charter school in
4 conjunction with its authorizer, and those measures shall be designed to help
5 each school meet applicable federal, state, and authorizer goals.

6 (f) The charter contract shall be signed by the chair of the governing board of the
7 authorizer and the chair of the board of directors of the public charter school.
8 An approved charter application shall ~~not~~ serve as a charter contract for the
9 public charter school.

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

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

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

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

19 (5) **All students enrolled in a public charter school shall be included in the average**
20 **daily attendance calculation under KRS 157.360 and the aggregate and average**
21 **daily attendance of transported pupils calculation under KRS 157.370 of the**
22 **district of location in the same manner as any other public schools in the district**
23 **and shall be reported by the public charter schools to the school district and state**
24 **Department of Education for purposes of calculating the state and local share of**
25 **funding for each public charter school.**

26 (6) **Notwithstanding the formula for allocating district funds under KRS 160.345(8)**
27 **and any other statute governing a district's funding of schools, unless an**

authorizing district agrees to provide a larger sum of funding in the charter contract, after local capital outlay funds that are restricted in use pursuant to KRS 157.420(4) and funds under KRS 157.440(1)(b) and 157.621 necessary to meet debt service obligations on bonds or other financing mechanisms for new construction and renovation projects for school facilities are excluded, and before any other funds are budgeted for district use, a district shall transfer to each of the public charter schools located within the district:

(a) The amount that is proportional to the public charter school's enrollment or average daily attendance in comparison with the overall district qualifying numbers for:

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

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

(b) On a proportionate per pupil basis:

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

(c) On a proportionate per pupil transported basis, transportation funds

1 calculated pursuant to KRS 157.360(2)(c) and 157.370 and distributed to
 2 the district of location, unless the school district provides transportation to
 3 students attending the public charter school under written terms agreed
 4 upon by the district and the public charter school in either the charter
 5 contract or, if the district is not the public charter school's authorizer, a
 6 separate agreement.

7 (7) (a) If transportation funds are transferred under this section to a public charter
 8 school, then the public charter school receiving those funds shall provide
 9 transportation services to the enrolled students residing within the district of
 10 location.

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

15 (c) If transportation services are not provided by the public charter school and
 16 no written agreement to provide transportation services with the district of
 17 location exists, then no transportation funds shall be transferred and the
 18 district of location shall not be responsible for providing transportation to
 19 the public charter school's students.

20 (8) Notwithstanding the identification of funds to be transferred in this section, a
 21 collaborative among local school boards authorizing a public charter school may
 22 negotiate among the local boards and a charter applicant to identify the amount
 23 of funds to be transferred to the public charter school. The agreement shall be
 24 detailed in the charter contract.

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

- 1 1. The public charter school's average daily attendance shall be
2 calculated based on a projection of the public charter school's
3 enrollment and the district's overall average daily attendance;
- 4 2. The public charter school's aggregate daily attendance of students
5 transported shall be calculated based on a projection of the public
6 charter school's enrollment and transportation plan and the district's
7 overall aggregate daily attendance of students transported; and
- 8 3. The amounts attributable to each individual student's attendance at
9 the public charter school shall be calculated based on a projection of
10 the public charter school's enrollment and demographics and the
11 district's overall enrollment and demographics.
- 12 (b) The calculations shall be adjusted in January of the first school year of
13 operation to reflect the first semester's actual data. Subsequent years of
14 operation shall be calculated using actual data from the prior school year.
- 15 (10) (a) Funds identified for transfer under this section shall be transferred by a
16 district of location to each of the public charter schools located within the
17 district. However, up to three percent (3%) of the funds identified under this
18 section for transfer to a public charter school may be retained by an
19 authorizer as an authorizer fee.
- 20 (b) If the authorizer of a public charter school does not include the local board
21 of education of the district of location, then the district of location shall
22 transfer the authorizer fee to the public charter school's authorizer.
- 23 (c) If the Kentucky Board of Education requires the authorization of a public
24 charter school on appeal from an authorizer, the board shall receive twenty-
25 five percent (25%) of the authorizing fee for the duration of joint oversight
26 required by Section 6 of this Act.
- 27 (11) Funds identified for transfer by a district of location to a public charter school

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

(12) A public charter school shall be eligible for federal and state competitive grants and shall not be excluded from an opportunity to apply or participate so long as the public charter school meets the criteria established for the respective grants. Each public charter school that receives grant aid shall comply with all requirements to receive such aid.

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

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

(15) If a public charter school closes for any reason, the assets of the school shall be distributed first to satisfy outstanding payroll obligations for employees of the school, then to the creditors of the school, then to the district of location or authorizing districts if authorized by a collaborative of local boards of education. If the assets are insufficient to satisfy outstanding obligations, the authorizer

shall petition to Circuit Court of the county in which the public charter school is located to prioritize the distribution of assets.

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

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

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

~~[(4) The commissioner of education shall apply for financial assistance through the federal government for the planning, program design, and initial implementation of public charter schools in the state within sixty (60) days after June 29, 2017, or at the first available grant application period. Federal grants include but are not limited to the Charter Schools Program administered by the United States Department of Education.]~~

(17) ~~[(5)]~~ By August 31, 2023~~[2019]~~, and annually thereafter, each public charter school authorizer shall submit to the commissioner of education, the secretary of the Education and Workforce Development Cabinet, and the Interim Joint Committee on Education a report to include:

(a) The names of each public charter school operating under contract with the authorizer during the previous academic year that:

1. Closed during or after the academic year; or
2. Had the contract nonrenewed or revoked;

(b) The names of each public charter school operating under contract with the authorizer during the previous academic year that have not yet begun to operate;

- 1 (c) The number of applications received, the number reviewed, and the number
- 2 approved;
- 3 (d) A summary of the academic and financial performance of each public charter
- 4 school operated under contract with the authorizer during the previous
- 5 academic year; and
- 6 (e) The authorizing duties and functions performed by the authorizer during the
- 7 previous academic year.

8 ➔Section 8. KRS 160.1597 is amended to read as follows:

- 9 (1) Upon the approval of a charter contract by a public charter school authorizer, the
- 10 applicant shall be permitted to operate a public charter school for a term of five (5)
- 11 years.
- 12 (2) The board of directors of the public charter school shall negotiate and execute a
- 13 charter contract with the governing body of the authorizer.
- 14 (3) A public charter school shall have all corporate powers necessary and desirable for
- 15 carrying out a public charter school program in accordance with this section and the
- 16 terms of the charter contract, including all of the powers of a local board of
- 17 education and of a local school district, except as otherwise provided in KRS
- 18 160.1590 to 160.1599.
- 19 (4) The powers granted to a public charter school under this section constitute the
- 20 performance of essential public purposes and governmental purposes of this state. A
- 21 public charter school shall be exempt to the same extent as other public schools
- 22 from all taxation, fees, assessments, and~~or~~ special ad valorem levies on its
- 23 earnings and its property. Instruments of conveyance to or from a public charter
- 24 school and any bonds or notes issued by a public charter school, together with the
- 25 income received, shall at all times be exempt from taxation.
- 26 (5) A public charter school shall not have the power to levy taxes or to acquire property
- 27 by eminent domain, but shall have police powers to the same extent and under the

1 same requirements as a local school district.

2 (6) The board of directors of the public charter school shall have final authority over
3 policy and operational decisions of the public charter school, although the decision-
4 making authority may be delegated to the administrators and staff of the school in
5 accordance with the provisions of the charter contract.

6 (7) Notwithstanding any other statute to the contrary, no civil liability shall attach to
7 any public charter school authorizer or to any of its members or employees,
8 individually or collectively, for any acts or omissions of the public charter school.
9 Neither the local school district nor the Commonwealth shall be liable for the debts
10 or financial obligations of a public charter school or any person or corporate entity
11 who operates a public charter school.

12 ➔Section 9. KRS 160.1598 is amended to read as follows:

13 (1) A charter contract may be renewed by the authorizer for a term of duration of five
14 (5) years, although the authorizer may vary the term to as few as three (3) years.
15 Any variation in the public charter school's term must be solely based on the
16 performance, demonstrated capacities, and particular circumstances of a public
17 charter school. Authorizers may grant renewal with specific conditions for
18 necessary improvements to a public charter school, but may not impose conditions
19 inconsistent with KRS 160.1590 to 160.1599.

20 (2) (a) No later than one (1) calendar year prior to the expiration date of a charter
21 contract, an authorizer shall issue a public charter school performance report
22 and charter renewal application guidance to the public charter school it
23 authorized. The performance report shall summarize the school's performance
24 record to date, based on the performance framework required under KRS
25 160.1596 and the charter contract, and shall provide notice of any weaknesses
26 or concerns related to the school that may jeopardize its position in seeking
27 renewal if not timely rectified and of any strengths or achievements that

1 support its position in seeking renewal.

2 (b) The school shall have twenty (20) days to respond to the performance report
3 and submit any corrections or clarification for the report to the authorizer.

4 (c) Within ten (10) days of receiving a school's response, the authorizer shall
5 review the response and issue a final performance report to the school.

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

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

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

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

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

15 (4) (a) No later than six (6) months prior to the expiration date of a charter contract,
16 the board of directors of a public charter school seeking charter contract
17 renewal shall submit a renewal application to the authorizer pursuant to the
18 renewal application guidance issued by the authorizer.

19 (b) The authorizer shall rule by resolution on the renewal application no later than
20 thirty (30) days after receipt of the application.

21 (5) In making charter application, renewal, or other appealable decisions, an authorizer
22 shall:

23 (a) Make its decision within established timeframes. Any failure of the authorizer
24 to act on a charter application, renewal, or other appealable decision shall be
25 deemed an approval~~[a denial]~~ of the requested action~~[and thereafter be~~
26 ~~subject to appeal]~~;

27 (b) Base its decision on evidence of the public charter school's performance over

- 1 the term of the charter contract in accordance with the performance
2 framework required in the charter contract;
- 3 (c) Ensure that data used in making renewal decisions is available to the public
4 charter school and the public; and
- 5 (d) Provide a public report summarizing the evidence basis for each decision.
- 6 (6) A charter contract may not be renewed if the authorizer determines that the public
7 charter school has:
- 8 (a) Committed a material violation of any of the terms, conditions, standards, or
9 procedures required under KRS 160.1590 to 160.1599 and 161.141 or the
10 charter contract, and has persistently failed to correct the violation after fair
11 and specific notice from the authorizer;
- 12 (b) Failed to meet or make significant progress toward the performance
13 expectations identified in the charter contract;
- 14 (c) Failed to meet generally accepted standards of fiscal management, and has
15 failed to correct the violation after fair and specific notice from the authorizer;
16 or
- 17 (d) Substantially violated any material provision of law from which the public
18 charter school was not exempted and has failed to correct the violation after
19 fair and specific notice from the authorizer.
- 20 (7) An authorizer may take immediate action to revoke a charter contract if a violation
21 threatens the health and safety of the students of the public charter school.
- 22 (8) The State Board of Education shall promulgate administrative regulations
23 establishing a revocation and nonrenewal process for charter authorizers that:
- 24 (a) Provides the charter holder with a timely notification of the prospect of
25 revocation or nonrenewal and of the reasons for such possible closure;
- 26 (b) Allows a charter holder a reasonable time in which to prepare a response;
- 27 (c) Provides the charter holder with an opportunity to submit documentation and

1 provide testimony challenging the rationale behind the closure and in support
 2 of the continuation of the school at ~~a[an]~~ **public meeting**~~[orderly proceeding]~~
 3 held for that purpose;

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

6 (e) Permits the recording of such proceedings; and

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

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

12 (10) Within ten (10) days of taking action to renew, not renew, or revoke a charter, the
 13 authorizer shall report to the state board the action taken, and shall provide a report
 14 to the public charter school at the same time the report is issued to the state board.
 15 The report shall include a copy of the resolution adopted by the authorizer's
 16 governing board describing the action taken and reasons for the decision and
 17 assurance as to compliance with all of the procedural requirements and application
 18 elements found in KRS 160.1593.

19 (11) An authorizer shall develop a public charter school closure protocol to ensure
 20 timely notification to parents, orderly transition of students and student records to
 21 new schools, and proper disposition of school funds, property, and assets. The
 22 protocol shall specify tasks, timelines, and responsible parties, including delineating
 23 the respective duties of the school and the authorizer. If a public charter school
 24 closes for any reason, the authorizer shall oversee and work with the closing school
 25 to ensure a smooth and orderly closure and transition for students and parents, as
 26 guided by the closure protocol. If a public charter school is subject to closure,
 27 following exhaustion of any appeal allowed under KRS 160.1595, an authorizer

1 may remove at will at any time any or all of the members of the board of directors
 2 of the public charter school in connection with ensuring a smooth and orderly
 3 closure. If the authorizer removes members of the board of directors such that the
 4 board of directors can no longer function, the authorizer shall be empowered to take
 5 any further necessary and proper acts connected with closure of the public charter
 6 school in the name and interest of the public charter school.

7 ➔Section 10. KRS 160.1599 is amended to read as follows:

8 (1) An existing public school not scheduled for closure may be converted into a public
 9 charter school and be identified to become~~[as]~~ a conversion public charter school if
 10 an applicant indicates to a valid authorizer the intent to convert an existing public
 11 school into a conversion public charter school.

12 (2) A conversion public charter school may only be established if:

13 (a) A school has been identified by the Kentucky Department of Education as
 14 performing in the lowest five percent (5%) of its level and sixty percent (60%)
 15 of the parents or guardians of students who attend the school have signed a
 16 petition requesting the conversion, which shall be completed and submitted to
 17 a valid authorizer no later than ninety (90) days after the date of the first
 18 signature;

19 (b) A school has been identified by the Kentucky Department of Education as not
 20 performing in the lowest five percent (5%) of its level and sixty percent (60%)
 21 of the parents or guardians of students who attend the school have signed a
 22 petition requesting the conversion, which is approved by a majority vote of the
 23 local school board. If approved the completed petition shall be submitted to a
 24 valid authorizer no later than ninety (90) days after the date of the first
 25 signature; or

26 (c) The local school board votes to convert an existing public school over which
 27 it has authority.

- 1 (3) For each conversion option identified in subsection (2) of this section, the Kentucky
 2 Board of Education shall promulgate administrative regulations to govern the
 3 processes and procedures for the petition, the conversion, and the operation of a
 4 conversion public charter school.
- 5 (4) A conversion public charter school shall be governed by a board of directors
 6 constituted and empowered as provided in KRS 160.1592.
- 7 (5) A conversion public charter school shall continue to comply with all federal and
 8 state requirements concerning the treatment of children with special needs and
 9 accept all students who attended the school prior to its conversion who wish to
 10 attend.
- 11 (6) A conversion public charter school shall hire its own employees.
- 12 (7) An employee who works in a conversion public charter school shall be an employee
 13 of the public charter school.
- 14 (8) (a) For any collective bargaining agreement entered into on or after June 29,
 15 2017, a governing board shall not be bound by its collective bargaining
 16 agreement for employees of a conversion public charter school.
- 17 (b) Employees of a conversion public charter school may organize and
 18 collectively bargain only as a unit separate from other school employees.
- 19 (9) A conversion public charter school shall continue to be housed in the same public
 20 school facility and shall have the option of using the existing assets of the school.

21 ➔SECTION 11. A NEW SECTION OF KRS 160.1590 TO 160.1599 IS
 22 CREATED TO READ AS FOLLOWS:

- 23 **(1) The Kentucky Public Charter School Pilot Project is hereby established to study**
 24 **the impact of public charter schools within the common school system.**
- 25 **(2) Authorizers for the pilot project shall include:**
- 26 **(a) A school board of a county school district located in a county with a**
 27 **consolidated local government, which shall have authorizing jurisdiction**

1 within the territory of the district's boundaries; and

2 (b) Notwithstanding Section 1 of this Act, the board of regents of Northern
 3 Kentucky University, which shall have authorizing jurisdiction within any
 4 county containing four (4) or more local school districts. The board of
 5 regents shall only become a pilot project authorizer if the board adopts a
 6 resolution confirming the status by January 1, 2023. The board of regents
 7 shall send notice of the resolution to each local board within the
 8 jurisdiction, the Kentucky Board of Education, and the Legislative
 9 Research Commission. The board of regents may decline to be an
 10 authorizer by July 1, 2023, in the same manner.

11 (3) By July 1, 2023, each pilot project authorizer shall solicit, review, and approve at
 12 least one (1) charter application for a public charter school within the
 13 authorizer's jurisdiction that serves as an urban academy. The charter contract
 14 shall be for a five (5) year term, but otherwise subject to KRS 160.1590 to
 15 160.1599. The pilot authorizers shall submit a copy of the approved charter
 16 contracts to the Legislative Research Commission.

17 (4) (a) If on July 1, 2023, the Northern Kentucky University board of regents is not
 18 a pilot project authorizer, then notwithstanding Section 1 of this Act, a
 19 collective of metropolitan local school boards that is composed of two (2)
 20 members from each local board of a district located in a county that
 21 contains four (4) or more local school districts shall become a substitute
 22 pilot project authorizer. Each local board shall select its members to serve
 23 on the collective.

24 (b) The collective shall have authorizing authority within the collective
 25 districts' boundaries. The collective shall adopt authorizer policies as if it
 26 were a single local board and may allocate authorizer fees as necessary to
 27 support authorizer functions. The collective may contract with other

1 governmental or nonprofit organizations to assist with public charter school
2 oversight.

3 (c) By July 1, 2024, the collective shall solicit, review, and approve at least one
4 (1) charter application for a public charter school within the authorizer's
5 jurisdiction that serves as an urban academy. The charter contract shall be
6 for a five (5) year term, but otherwise subject to KRS 160.1590 to 160.1599.
7 The pilot authorizers shall submit a copy of the approved charter contracts
8 to the Legislative Research Commission.

9 (5) By July 1 of each year the charter contract is in effect, the pilot project
10 authorizers shall submit an annual report to the Interim Joint Committee on
11 Education and the Interim Joint Committee on Appropriations and Revenue
12 detailing the authorizer's oversight activities over the previous year. The report
13 shall have content and be in a format approved by the Education Assessment and
14 Accountability Review Subcommittee with the assistance of the Office of
15 Education Accountability.

16 (6) Starting in 2024 and until the initial charter contract ends, the Office of
17 Education Accountability shall annually review the performance of the public
18 charter schools authorized under this section and submit the report to the Interim
19 Joint Committee on Education and the Interim Joint Committee on
20 Appropriations and Revenue. The Education Assessment and Accountability
21 Review Subcommittee may provide guidance to the Office of Education
22 Accountability on the content and format of the report.

23 (7) Upon the end of the initial term of the charter contract, the pilot authorizers shall
24 review the reports under subsection (5) of this section and determine if the
25 contract shall be renewed in the same manner as any other charter contract
26 under the provisions of Section 9 of this Act. The decision shall be appealable
27 under Section 6 of this Act.

1 ➔ Section 12. KRS 161.141 is amended to read as follows:

- 2 (1) As used in this section, "education service provider," "public charter school,"
 3 "local school board," and "local school district" have the same meanings as in KRS
 4 160.1590.
- 5 (2) (a) Public charter school employees shall participate in the Teachers' Retirement
 6 System or the County Employees Retirement System, as determined by their
 7 eligibility for participation in the appropriate system and provided the public
 8 charter school satisfies the criteria set by the Internal Revenue Service to
 9 participate in a governmental retirement plan.
- 10 (b) Teachers and other certified personnel shall make any required employee
 11 contributions to the Teachers' Retirement System under KRS 161.220 to
 12 161.716.
- 13 (c) Classified employees shall make any required employee contributions to the
 14 County Employees Retirement System under KRS 78.510 to 78.852.
- 15 (d) A public charter school shall participate in the state-sponsored health
 16 insurance program on the same basis as a local school district pursuant to
 17 Section 13 of this Act.
- 18 (e) Any state appropriation for retirement, health, or life insurance benefits
 19 made on behalf of a local public employee or a school district employee
 20 shall also be made on behalf of a public charter school employee.
- 21 (f) A public charter school shall make any required employer contributions to
 22 the Teachers' Retirement System under KRS 161.220 to 161.716 and the
 23 County Employees Retirement System under KRS 78.510 to 78.852 in the
 24 same manner as local school districts.
- 25 (g) For the purposes of calculating sick leave credit under KRS 161.220 to
 26 161.716, teachers and other certified personnel of a public charter school
 27 shall not accumulate more days of sick leave during their employment with

1 **the public charter school than they would have otherwise accumulated as a**
 2 **certified employee of the school district of location.**

3 (3) (a) A public charter school employee shall not be required to be a member of any
 4 collective bargaining agreement.

5 (b) A public charter school employee who enters into any collective bargaining
 6 unit must do so as a separate unit from the local school district.

7 (4) A local school board shall not require any employee of the local school district to be
 8 employed in a public charter school or any student enrolled in the school district to
 9 attend a public charter school.

10 (5) A local school board shall not harass, threaten, discipline, discharge, retaliate, or in
 11 any manner discriminate against any district employee involved directly or
 12 indirectly with an application to establish a public charter school.

13 **(6) An employee of an education service provider shall not be considered a public**
 14 **charter school employee, but shall meet the same certification and background**
 15 **check requirements otherwise required of a public charter school employee.**

16 ➔Section 13. KRS 18A.225 is amended to read as follows:

17 (1) (a) The term "employee" for purposes of this section means:

18 1. Any person, including an elected public official, who is regularly
 19 employed by any department, office, board, agency, or branch of state
 20 government; or by a public postsecondary educational institution; or by
 21 any city, urban-county, charter county, county, or consolidated local
 22 government, whose legislative body has opted to participate in the state-
 23 sponsored health insurance program pursuant to KRS 79.080; and who
 24 is either a contributing member to any one (1) of the retirement systems
 25 administered by the state, including but not limited to the Kentucky
 26 Retirement Systems, County Employees Retirement System, Kentucky
 27 Teachers' Retirement System, the Legislators' Retirement Plan, or the

- 1 Judicial Retirement Plan; or is receiving a contractual contribution from
 2 the state toward a retirement plan; or, in the case of a public
 3 postsecondary education institution, is an individual participating in an
 4 optional retirement plan authorized by KRS 161.567; or is eligible to
 5 participate in a retirement plan established by an employer who ceases
 6 participating in the Kentucky Employees Retirement System pursuant to
 7 KRS 61.522 whose employees participated in the health insurance plans
 8 administered by the Personnel Cabinet prior to the employer's effective
 9 cessation date in the Kentucky Employees Retirement System;
- 10 2. Any certified or classified employee of a local board of education **or a**
 11 **public charter school as defined in Section 1 of this Act;**
- 12 3. Any elected member of a local board of education;
- 13 4. Any person who is a present or future recipient of a retirement
 14 allowance from the Kentucky Retirement Systems, County Employees
 15 Retirement System, Kentucky Teachers' Retirement System, the
 16 Legislators' Retirement Plan, the Judicial Retirement Plan, or the
 17 Kentucky Community and Technical College System's optional
 18 retirement plan authorized by KRS 161.567, except that a person who is
 19 receiving a retirement allowance and who is age sixty-five (65) or older
 20 shall not be included, with the exception of persons covered under KRS
 21 61.702(4)(c), unless he or she is actively employed pursuant to
 22 subparagraph 1. of this paragraph; and
- 23 5. Any eligible dependents and beneficiaries of participating employees
 24 and retirees who are entitled to participate in the state-sponsored health
 25 insurance program;
- 26 (b) The term "health benefit plan" for the purposes of this section means a health
 27 benefit plan as defined in KRS 304.17A-005;

1 (c) The term "insurer" for the purposes of this section means an insurer as defined
2 in KRS 304.17A-005; and

3 (d) The term "managed care plan" for the purposes of this section means a
4 managed care plan as defined in KRS 304.17A-500.

5 (2) (a) The secretary of the Finance and Administration Cabinet, upon the
6 recommendation of the secretary of the Personnel Cabinet, shall procure, in
7 compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090,
8 from one (1) or more insurers authorized to do business in this state, a group
9 health benefit plan that may include but not be limited to health maintenance
10 organization (HMO), preferred provider organization (PPO), point of service
11 (POS), and exclusive provider organization (EPO) benefit plans encompassing
12 all or any class or classes of employees. With the exception of employers
13 governed by the provisions of KRS Chapters 16, 18A, and 151B, all
14 employers of any class of employees or former employees shall enter into a
15 contract with the Personnel Cabinet prior to including that group in the state
16 health insurance group. The contracts shall include but not be limited to
17 designating the entity responsible for filing any federal forms, adoption of
18 policies required for proper plan administration, acceptance of the contractual
19 provisions with health insurance carriers or third-party administrators, and
20 adoption of the payment and reimbursement methods necessary for efficient
21 administration of the health insurance program. Health insurance coverage
22 provided to state employees under this section shall, at a minimum, contain
23 the same benefits as provided under Kentucky Kare Standard as of January 1,
24 1994, and shall include a mail-order drug option as provided in subsection
25 (13) of this section. All employees and other persons for whom the health care
26 coverage is provided or made available shall annually be given an option to
27 elect health care coverage through a self-funded plan offered by the

1 Commonwealth or, if a self-funded plan is not available, from a list of
2 coverage options determined by the competitive bid process under the
3 provisions of KRS 45A.080, 45A.085, and 45A.090 and made available
4 during annual open enrollment.

5 (b) The policy or policies shall be approved by the commissioner of insurance and
6 may contain the provisions the commissioner of insurance approves, whether
7 or not otherwise permitted by the insurance laws.

8 (c) Any carrier bidding to offer health care coverage to employees shall agree to
9 provide coverage to all members of the state group, including active
10 employees and retirees and their eligible covered dependents and
11 beneficiaries, within the county or counties specified in its bid. Except as
12 provided in subsection (20) of this section, any carrier bidding to offer health
13 care coverage to employees shall also agree to rate all employees as a single
14 entity, except for those retirees whose former employers insure their active
15 employees outside the state-sponsored health insurance program.

16 (d) Any carrier bidding to offer health care coverage to employees shall agree to
17 provide enrollment, claims, and utilization data to the Commonwealth in a
18 format specified by the Personnel Cabinet with the understanding that the data
19 shall be owned by the Commonwealth; to provide data in an electronic form
20 and within a time frame specified by the Personnel Cabinet; and to be subject
21 to penalties for noncompliance with data reporting requirements as specified
22 by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions
23 to protect the confidentiality of each individual employee; however,
24 confidentiality assertions shall not relieve a carrier from the requirement of
25 providing stipulated data to the Commonwealth.

26 (e) The Personnel Cabinet shall develop the necessary techniques and capabilities
27 for timely analysis of data received from carriers and, to the extent possible,

1 provide in the request-for-proposal specifics relating to data requirements,
2 electronic reporting, and penalties for noncompliance. The Commonwealth
3 shall own the enrollment, claims, and utilization data provided by each carrier
4 and shall develop methods to protect the confidentiality of the individual. The
5 Personnel Cabinet shall include in the October annual report submitted
6 pursuant to the provisions of KRS 18A.226 to the Governor, the General
7 Assembly, and the Chief Justice of the Supreme Court, an analysis of the
8 financial stability of the program, which shall include but not be limited to
9 loss ratios, methods of risk adjustment, measurements of carrier quality of
10 service, prescription coverage and cost management, and statutorily required
11 mandates. If state self-insurance was available as a carrier option, the report
12 also shall provide a detailed financial analysis of the self-insurance fund
13 including but not limited to loss ratios, reserves, and reinsurance agreements.

14 (f) If any agency participating in the state-sponsored employee health insurance
15 program for its active employees terminates participation and there is a state
16 appropriation for the employer's contribution for active employees' health
17 insurance coverage, then neither the agency nor the employees shall receive
18 the state-funded contribution after termination from the state-sponsored
19 employee health insurance program.

20 (g) Any funds in flexible spending accounts that remain after all reimbursements
21 have been processed shall be transferred to the credit of the state-sponsored
22 health insurance plan's appropriation account.

23 (h) Each entity participating in the state-sponsored health insurance program shall
24 provide an amount at least equal to the state contribution rate for the employer
25 portion of the health insurance premium. For any participating entity that used
26 the state payroll system, the employer contribution amount shall be equal to
27 but not greater than the state contribution rate.

- 1 (3) The premiums may be paid by the policyholder:
- 2 (a) Wholly from funds contributed by the employee, by payroll deduction or
- 3 otherwise;
- 4 (b) Wholly from funds contributed by any department, board, agency, public
- 5 postsecondary education institution, or branch of state, city, urban-county,
- 6 charter county, county, or consolidated local government; or
- 7 (c) Partly from each, except that any premium due for health care coverage or
- 8 dental coverage, if any, in excess of the premium amount contributed by any
- 9 department, board, agency, postsecondary education institution, or branch of
- 10 state, city, urban-county, charter county, county, or consolidated local
- 11 government for any other health care coverage shall be paid by the employee.
- 12 (4) If an employee moves his or her place of residence or employment out of the service
- 13 area of an insurer offering a managed health care plan, under which he or she has
- 14 elected coverage, into either the service area of another managed health care plan or
- 15 into an area of the Commonwealth not within a managed health care plan service
- 16 area, the employee shall be given an option, at the time of the move or transfer, to
- 17 change his or her coverage to another health benefit plan.
- 18 (5) No payment of premium by any department, board, agency, public postsecondary
- 19 educational institution, or branch of state, city, urban-county, charter county,
- 20 county, or consolidated local government shall constitute compensation to an
- 21 insured employee for the purposes of any statute fixing or limiting the
- 22 compensation of such an employee. Any premium or other expense incurred by any
- 23 department, board, agency, public postsecondary educational institution, or branch
- 24 of state, city, urban-county, charter county, county, or consolidated local
- 25 government shall be considered a proper cost of administration.
- 26 (6) The policy or policies may contain the provisions with respect to the class or classes
- 27 of employees covered, amounts of insurance or coverage for designated classes or

1 groups of employees, policy options, terms of eligibility, and continuation of
2 insurance or coverage after retirement.

3 (7) Group rates under this section shall be made available to the disabled child of an
4 employee regardless of the child's age if the entire premium for the disabled child's
5 coverage is paid by the state employee. A child shall be considered disabled if he or
6 she has been determined to be eligible for federal Social Security disability benefits.

7 (8) The health care contract or contracts for employees shall be entered into for a period
8 of not less than one (1) year.

9 (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of
10 State Health Insurance Subscribers to advise the secretary or the secretary's designee
11 regarding the state-sponsored health insurance program for employees. The
12 secretary shall appoint, from a list of names submitted by appointing authorities,
13 members representing school districts from each of the seven (7) Supreme Court
14 districts, members representing state government from each of the seven (7)
15 Supreme Court districts, two (2) members representing retirees under age sixty-five
16 (65), one (1) member representing local health departments, two (2) members
17 representing the Kentucky Teachers' Retirement System, and three (3) members at
18 large. The secretary shall also appoint two (2) members from a list of five (5) names
19 submitted by the Kentucky Education Association, two (2) members from a list of
20 five (5) names submitted by the largest state employee organization of nonschool
21 state employees, two (2) members from a list of five (5) names submitted by the
22 Kentucky Association of Counties, two (2) members from a list of five (5) names
23 submitted by the Kentucky League of Cities, and two (2) members from a list of
24 names consisting of five (5) names submitted by each state employee organization
25 that has two thousand (2,000) or more members on state payroll deduction. The
26 advisory committee shall be appointed in January of each year and shall meet
27 quarterly.

- 1 (10) Notwithstanding any other provision of law to the contrary, the policy or policies
2 provided to employees pursuant to this section shall not provide coverage for
3 obtaining or performing an abortion, nor shall any state funds be used for the
4 purpose of obtaining or performing an abortion on behalf of employees or their
5 dependents.
- 6 (11) Interruption of an established treatment regime with maintenance drugs shall be
7 grounds for an insured to appeal a formulary change through the established appeal
8 procedures approved by the Department of Insurance, if the physician supervising
9 the treatment certifies that the change is not in the best interests of the patient.
- 10 (12) Any employee who is eligible for and elects to participate in the state health
11 insurance program as a retiree, or the spouse or beneficiary of a retiree, under any
12 one (1) of the state-sponsored retirement systems shall not be eligible to receive the
13 state health insurance contribution toward health care coverage as a result of any
14 other employment for which there is a public employer contribution. This does not
15 preclude a retiree and an active employee spouse from using both contributions to
16 the extent needed for purchase of one (1) state sponsored health insurance policy for
17 that plan year.
- 18 (13) (a) The policies of health insurance coverage procured under subsection (2) of
19 this section shall include a mail-order drug option for maintenance drugs for
20 state employees. Maintenance drugs may be dispensed by mail order in
21 accordance with Kentucky law.
- 22 (b) A health insurer shall not discriminate against any retail pharmacy located
23 within the geographic coverage area of the health benefit plan and that meets
24 the terms and conditions for participation established by the insurer, including
25 price, dispensing fee, and copay requirements of a mail-order option. The
26 retail pharmacy shall not be required to dispense by mail.
- 27 (c) The mail-order option shall not permit the dispensing of a controlled

1 substance classified in Schedule II.

2 (14) The policy or policies provided to state employees or their dependents pursuant to
3 this section shall provide coverage for obtaining a hearing aid and acquiring hearing
4 aid-related services for insured individuals under eighteen (18) years of age, subject
5 to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months
6 pursuant to KRS 304.17A-132.

7 (15) Any policy provided to state employees or their dependents pursuant to this section
8 shall provide coverage for the diagnosis and treatment of autism spectrum disorders
9 consistent with KRS 304.17A-142.

10 (16) Any policy provided to state employees or their dependents pursuant to this section
11 shall provide coverage for obtaining amino acid-based elemental formula pursuant
12 to KRS 304.17A-258.

13 (17) If a state employee's residence and place of employment are in the same county, and
14 if the hospital located within that county does not offer surgical services, intensive
15 care services, obstetrical services, level II neonatal services, diagnostic cardiac
16 catheterization services, and magnetic resonance imaging services, the employee
17 may select a plan available in a contiguous county that does provide those services,
18 and the state contribution for the plan shall be the amount available in the county
19 where the plan selected is located.

20 (18) If a state employee's residence and place of employment are each located in counties
21 in which the hospitals do not offer surgical services, intensive care services,
22 obstetrical services, level II neonatal services, diagnostic cardiac catheterization
23 services, and magnetic resonance imaging services, the employee may select a plan
24 available in a county contiguous to the county of residence that does provide those
25 services, and the state contribution for the plan shall be the amount available in the
26 county where the plan selected is located.

27 (19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and

1 in the best interests of the state group to allow any carrier bidding to offer health
2 care coverage under this section to submit bids that may vary county by county or
3 by larger geographic areas.

4 (20) Notwithstanding any other provision of this section, the bid for proposals for health
5 insurance coverage for calendar year 2004 shall include a bid scenario that reflects
6 the statewide rating structure provided in calendar year 2003 and a bid scenario that
7 allows for a regional rating structure that allows carriers to submit bids that may
8 vary by region for a given product offering as described in this subsection:

9 (a) The regional rating bid scenario shall not include a request for bid on a
10 statewide option;

11 (b) The Personnel Cabinet shall divide the state into geographical regions which
12 shall be the same as the partnership regions designated by the Department for
13 Medicaid Services for purposes of the Kentucky Health Care Partnership
14 Program established pursuant to 907 KAR 1:705;

15 (c) The request for proposal shall require a carrier's bid to include every county
16 within the region or regions for which the bid is submitted and include but not
17 be restricted to a preferred provider organization (PPO) option;

18 (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the
19 carrier all of the counties included in its bid within the region. If the Personnel
20 Cabinet deems the bids submitted in accordance with this subsection to be in
21 the best interests of state employees in a region, the cabinet may award the
22 contract for that region to no more than two (2) carriers; and

23 (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including
24 other requirements or criteria in the request for proposal.

25 (21) Any fully insured health benefit plan or self-insured plan issued or renewed on or
26 after July 12, 2006, to public employees pursuant to this section which provides
27 coverage for services rendered by a physician or osteopath duly licensed under KRS

Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.

(22) Any fully insured health benefit plan or self-insured plan issued or renewed on or after June 29, 2021, to public employees pursuant to this section shall comply with:

- (a) KRS 304.12-237;
- (b) KRS 304.17A-270 and 304.17A-525;
- (c) KRS 304.17A-600 to 304.17A-633;
- (d) KRS 205.593;
- (e) KRS 304.17A-700 to 304.17A-730;
- (f) KRS 304.14-135;
- (g) KRS 304.17A-580 and 304.17A-641;
- (h) KRS 304.99-123;
- (i) KRS 304.17A-138; and
- (j) Administrative regulations promulgated pursuant to statutes listed in this subsection.

(23) Any fully insured health benefit plan or self-insured plan issued or renewed on or after January 1, 2022, to public employees pursuant to this section shall comply with KRS 304.17A-148.

➔Section 14. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and 161.990:

- (1) "Retirement system" means the arrangement provided for in KRS 161.220 to 161.716 and 161.990 for payment of allowances to members;
- (2) "Retirement allowance" means the amount annually payable during the course of his or her natural life to a member who has been retired by reason of service;
- (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 and public charter schools if the public charter
9 school satisfies the criteria set by the Internal Revenue Service to participate
10 in a governmental retirement plan;

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

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

16 (d) Other public education agencies as created by the General Assembly and those
17 members of the administrative staff of the Teachers' Retirement System of the
18 State of Kentucky whom the board of trustees may designate by administrative
19 regulation;

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

23 (f) All full-time members of the staffs of the Kentucky Association of School
24 Administrators, Kentucky Education Association, Kentucky Vocational
25 Association, Kentucky High School Athletic Association, Kentucky Academic
26 Association, and the Kentucky School Boards Association who were members
27 of the Kentucky Teachers' Retirement System or were qualified for a position

covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) Employees of the Council on Postsecondary Education who were employees of the Department for Adult Education and Literacy and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600;

(h) The Office of Career and Technical Education;

(i) The Office of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member, except that any person who becomes a member on or after January 1, 2022, and subsequently draws a monthly lifetime retirement allowance, shall upon reemployment after retirement not earn a second retirement account;

(m) Employees of the former Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying

1 these positions, as well as newly created positions qualifying for Teachers'
2 Retirement System coverage that would have previously been included in the
3 former Cabinet for Workforce Development, shall be members of the
4 Teachers' Retirement System;

5 (n) Effective January 1, 1998, employees of state community colleges who are
6 transferred to the Kentucky Community and Technical College System shall
7 continue to participate in federal old age, survivors, disability, and hospital
8 insurance, and a retirement plan other than the Kentucky Teachers' Retirement
9 System offered by Kentucky Community and Technical College System. New
10 employees occupying positions in the Kentucky Community and Technical
11 College System as referenced in KRS 164.5807(5) that would not have
12 previously been included in the former Cabinet for Workforce Development,
13 shall participate in federal old age, survivors, disability, and hospital insurance
14 and have a choice at the time of employment of participating in a retirement
15 plan provided by the Kentucky Community and Technical College System,
16 including participation in the Kentucky Teachers' Retirement System, on the
17 same basis as faculty of the state universities as provided in KRS 161.540 and
18 161.620;

19 (o) Employees of the Office of General Counsel, the Office of Budget and
20 Administrative Services, and the Office of Quality and Human Resources
21 within the Office of the Secretary of the former Cabinet for Workforce
22 Development and the commissioners of the former Department for Adult
23 Education and Literacy and the former Department for Technical Education
24 who were contributing to the Kentucky Teachers' Retirement System as of
25 July 15, 2000;

26 (p) Employees of the Kentucky Department of Education only who are graduates
27 of a four (4) year college or university, notwithstanding a substitution clause

- 1 within a job classification, and who are serving in a professional job
2 classification as defined by the department;
- 3 (q) The Governor's School for Entrepreneurs Program;
- 4 (r) Employees of the Office of Adult Education within the Department of
5 Workforce Investment in the Education and Workforce Development Cabinet
6 who were employees of the Council on Postsecondary Education, Kentucky
7 Adult Education Program and who were members of the Kentucky Teachers'
8 Retirement System at the time the Program was transferred to the cabinet
9 pursuant to Executive Orders 2019-0026 and 2019-0027; and
- 10 (s) Employees of the Education Professional Standards Board who were members
11 of the Kentucky Teachers' Retirement System at the time the employees were
12 transferred to the Kentucky Department of Education pursuant to Executive
13 Order 2020-590;
- 14 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
15 and became a member of the retirement system created by 1938 (1st Extra. Sess.)
16 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
17 after that date, and any teacher who was a member of a local teacher retirement
18 system in the public elementary or secondary schools of the state on or before July
19 1, 1940, and continued to be a member of the system until he or she, with the
20 membership of the local retirement system, became a member of the state Teachers'
21 Retirement System or who becomes a member under the provisions of KRS
22 161.470(4);
- 23 (6) "New teacher" means any member not a present teacher;
- 24 (7) "Prior service" means the number of years during which the member was a teacher
25 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior
26 service shall be allowed or credited to any teacher;
- 27 (8) "Subsequent service" means the number of years during which the teacher is a

1 member of the Teachers' Retirement System after July 1, 1941;

2 (9) "Final average salary" means the average of the five (5) highest annual salaries
3 which the member has received for service in a covered position and on which the
4 member has made contributions, or on which the public board, institution, or
5 agency has picked-up member contributions pursuant to KRS 161.540(2), or the
6 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
7 which shall include picked-up member contributions. Additionally, the board of
8 trustees may approve a final average salary based upon the average of the three (3)
9 highest salaries for individuals who become members prior to January 1, 2022, who
10 are at least fifty-five (55) years of age and have a minimum of twenty-seven (27)
11 years of Kentucky service credit. However, if any of the five (5) or three (3) highest
12 annual salaries used to calculate the final average salary was paid within the three
13 (3) years immediately prior to the date of the member's retirement for individuals
14 who become members prior to January 1, 2022, or within the five (5) years
15 immediately prior to the date of the member's retirement for individuals who
16 become members on or after January 1, 2022, the amount of salary to be included
17 for each of those three (3) years or five (5) years, as applicable, for the purpose of
18 calculating the final average salary shall be limited to the lesser of:

19 (a) The member's actual salary; or

20 (b) The member's annual salary that was used for retirement purposes during each
21 of the prior three (3) years or five (5) years, as applicable, plus a percentage
22 increase equal to the percentage increase received by all other members
23 employed by the public board, institution, or agency, or for members of school
24 districts, the highest percentage increase received by members on any one (1)
25 rank and step of the salary schedule of the school district. The increase shall
26 be computed on the salary that was used for retirement purposes. The board of
27 trustees may promulgate an administrative regulation in accordance with KRS

Chapter 13A to establish a methodology for measuring the limitation so that the combined increases in salary for each of the last three (3) full years of salary prior to retirement shall not exceed the total permissible percentage increase received by other members of the employer for the same three (3) year period.

For individuals who became members of the retirement system prior to July 1, 2021, this limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. The board of trustees may promulgate an administrative regulation in accordance with KRS Chapter 13A to provide definitions for a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave if the individual becomes a member before July 1, 2008, or accrued sick leave which is authorized by statute and which shall, for individuals subject to KRS 161.155(10) who became nonuniversity members of the system prior to January 1, 2022, be included as part of a retiring member's annual compensation for the member's last year of active service;

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

24 (a) For an individual who becomes a member prior to July 1, 2008, interest at
 25 three percent (3%) per annum;;

26 (b) For an individual who becomes a member on or after July 1, 2008, but prior to
 27 January 1, 2022, interest at two and one-half percent (2.5%) per annum for

1 purposes of crediting interest to the teacher savings account or any other
 2 contributions made by the employee that are refundable to the employee upon
 3 termination of employment; and

4 (c) For an individual who becomes a member on or after January 1, 2022, the
 5 rolling five (5) year yield on a thirty (30) year United States Treasury bond as
 6 of the end of May prior to the most recently completed fiscal year, except that:

7 1. Once the member has at least sixty (60) months of service in the system
 8 it shall mean interest at two and one-half percent (2.5%) per annum for
 9 purposes of crediting interest to employee contributions in the
 10 foundational benefit component or any other contributions made by the
 11 employee to the foundational benefit component that are refundable to
 12 the employee upon termination of employment; and

13 2. The board shall have the authority to adjust the regular interest rate for
 14 individuals who become members on or after January 1, 2022, in
 15 accordance with KRS 161.633 and 161.634;

16 (14) "Accumulated contributions" means the contributions of a member to the teachers'
 17 savings fund, including picked-up member contributions as described in KRS
 18 161.540(2), plus accrued regular interest;

19 (15) "Annuitant" means a person who receives a retirement allowance or a disability
 20 allowance;

21 (16) "Local retirement system" means any teacher retirement or annuity system created
 22 in any public school district in Kentucky in accordance with the laws of Kentucky;

23 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
 24 retirement plan year is concurrent with this fiscal year. A contract for a member
 25 employed by a local board of education may not exceed two hundred sixty-one
 26 (261) days in the fiscal year;

27 (18) "Public schools" means the schools and other institutions mentioned in subsection

1 (4) of this section;

2 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
3 receiving, at the time of death of the member, at least one-half (1/2) of the support
4 from the member for maintenance, including board, lodging, medical care, and
5 related costs;

6 (20) "Active contributing member" means a member currently making contributions to
7 the Teachers' Retirement System, who made contributions in the next preceding
8 fiscal year, for whom picked-up member contributions are currently being made, or
9 for whom these contributions were made in the next preceding fiscal year;

10 (21) "Full-time" means employment in a position that requires services on a continuing
11 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year
12 basis;

13 (22) "Full actuarial cost," when used to determine the payment that a member must pay
14 for service credit means the actuarial value of all costs associated with the
15 enhancement of a member's benefits or eligibility for benefit enhancements,
16 including health insurance supplement payments made by the retirement system.
17 The actuary for the retirement system shall determine the full actuarial value costs
18 and actuarial cost factor tables as provided in KRS 161.400;

19 (23) "Last annual compensation" means the annual compensation, as defined by
20 subsection (10) of this section and as limited by subsection (9) of this section,
21 earned by the member during the most recent period of contributing service, either
22 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
23 full year of service credit in the Kentucky Teachers' Retirement System, and which
24 compensation is used in calculating the member's initial retirement allowance,
25 excluding bonuses, retirement incentives, payments for accumulated sick leave,
26 annual, personal, and compensatory leave, and any other lump-sum payment. For an
27 individual who becomes a member on or after July 1, 2008, payments for annual or

1 compensatory leave shall not be included in determining the member's last annual
2 compensation;

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

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

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

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

10 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
11 participant, who is designated to be paid retirement benefits in a qualified domestic
12 relations order;

13 (27) "University member" means an individual who becomes a member through
14 employment with an employer specified in subsection (4)(b) and (n) of this section;

15 (28) "Nonuniversity member" means an individual who becomes a member through
16 employment with an employer specified under subsection (4) of this section, except
17 for those members employed by an employer specified in subsection (4)(b) and (n)
18 of this section;

19 (29) "Accumulated employer contribution" means the employer contribution deposited
20 to a member's account through the supplemental benefit component and regular
21 interest credited on such amounts as provided by KRS 161.635 for nonuniversity
22 members and KRS 161.636 for university members;

23 (30) "Accumulated account balance" means:

24 (a) For members who began participating in the system prior to January 1, 2022,
25 the member's accumulated contributions; or

26 (b) For members who began participating in the system on or after January 1,
27 2022, the combined sum of the member's accumulated contributions and the

1 member's accumulated employer contributions;

2 (31) "Foundational benefit component" means the benefits provided by KRS 161.220 to
3 161.716 to individuals who become members on or after January 1, 2022, except for
4 the supplemental benefit component and retiree health benefits set forth in KRS
5 161.675; and

6 (32) "Supplemental benefit component" means:

7 (a) The benefit established pursuant to KRS 161.635 for individuals who become
8 nonuniversity members on or after January 1, 2022; or

9 (b) The benefit established pursuant to KRS 161.636 for individuals who become
10 university members on or after January 1, 2022.

11 ➔Section 15. KRS 78.510 is amended to read as follows:

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

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

14 (2) "Board" means the board of trustees of the system as provided in KRS 78.782;

15 (3) "County" means any county, or nonprofit organization created and governed by a
16 county, counties, or elected county officers, sheriff and his or her employees, county
17 clerk and his or her employees, circuit clerk and his or her deputies, former circuit
18 clerks or former circuit clerk deputies, or political subdivision or instrumentality,
19 including school boards, cities, charter county governments, urban-county
20 governments, consolidated local governments, or unified local governments
21 participating in the system by order appropriate to its governmental structure, as
22 provided in KRS 78.530, and if the board is willing to accept the agency,
23 organization, or corporation, the board being hereby granted the authority to
24 determine the eligibility of the agency to participate;

25 (4) "School board" means:

26 (a) Any board of education participating in the system by order appropriate to its
27 governmental structure, as provided in KRS 78.530, and if the board is willing

1 to accept the agency or corporation, the board being hereby granted the
 2 authority to determine the eligibility of the agency to participate; or

3 **(b) A public charter school as defined in Section 1 of this Act if the public**
 4 **charter school satisfies the criteria set by the Internal Revenue Service to**
 5 **participate in a governmental retirement plan;**

6 (5) "Examiner" means the medical examiners as provided in KRS 61.665;

7 (6) "Employee" means every regular full-time appointed or elective officer or employee
 8 of a participating county and the coroner of a participating county, whether or not he
 9 or she qualifies as a regular full-time officer. The term shall not include persons
 10 engaged as independent contractors, seasonal, emergency, temporary, and part-time
 11 workers. In case of any doubt, the board shall determine if a person is an employee
 12 within the meaning of KRS 78.510 to 78.852;

13 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
 14 officials of a county, or any authority of the county having the power to appoint or
 15 elect an employee to office or employment in the county;

16 (8) "Member" means any employee who is included in the membership of the system or
 17 any former employee whose membership has not ceased under KRS 78.535;

18 (9) "Service" means the total of current service and prior service as defined in this
 19 section;

20 (10) "Current service" means the number of years and months of employment as an
 21 employee, on and after July 1, 1958, for which creditable compensation is paid and
 22 employee contributions deducted, except as otherwise provided;

23 (11) "Prior service" means the number of years and completed months, expressed as a
 24 fraction of a year, of employment as an employee, prior to July 1, 1958, for which
 25 creditable compensation was paid. An employee shall be credited with one (1)
 26 month of prior service only in those months he received compensation for at least
 27 one hundred (100) hours of work. Twelve (12) months of current service in the

1 system shall be required to validate prior service;

2 (12) "Accumulated contributions" means the sum of all amounts deducted from the
 3 compensation of a member and credited to his individual account in the members'
 4 account, including employee contributions picked up after August 1, 1982, pursuant
 5 to KRS 78.610(4), together with interest credited, on the amounts, and any other
 6 amounts the member shall have contributed thereto, including interest credited
 7 thereon. "Accumulated contributions" shall not include employee contributions that
 8 are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
 9 fund established in KRS 78.520, as prescribed by KRS 78.5536(3)(b);

10 (13) "Creditable compensation":

11 (a) Except as limited by paragraph (c) of this subsection, means all salary, wages,
 12 and fees, including payments for compensatory time, paid to the employee as
 13 a result of services performed for the employer or for time during which the
 14 member is on paid leave, which are includable on the member's federal form
 15 W-2 wage and tax statement under the heading "wages, tips, other
 16 compensation", including employee contributions picked up after August 1,
 17 1982, pursuant to KRS 78.610(4). The creditable compensation of fee officers
 18 who receive salary, fees, maintenance, or other perquisites as a result of their
 19 official duties is the gross amount received decreased by the cost of salary
 20 paid deputies and clerks and the cost of office supplies and other official
 21 expenses;

22 (b) Includes:

- 23 1. Lump-sum bonuses, severance pay, or employer-provided payments for
 24 purchase of service credit, which shall be averaged over the employee's
 25 service with the system in which it is recorded if it is equal to or greater
 26 than one thousand dollars (\$1,000);
- 27 2. Cases where compensation includes maintenance and other perquisites,

1 but the board shall fix the value of that part of the compensation not paid
2 in money;

3 3. Lump-sum payments for creditable compensation paid as a result of an
4 order of a court of competent jurisdiction, the Personnel Board, or the
5 Commission on Human Rights, or for any creditable compensation paid
6 in anticipation of settlement of an action before a court of competent
7 jurisdiction, the Personnel Board, or the Commission on Human Rights,
8 including notices of violations of state or federal wage and hour statutes
9 or violations of state or federal discrimination statutes, which shall be
10 credited to the fiscal year during which the wages were earned or should
11 have been paid by the employer. This subparagraph shall also include
12 lump-sum payments for reinstated wages pursuant to KRS 61.569,
13 which shall be credited to the period during which the wages were
14 earned or should have been paid by the employer;

15 4. Amounts which are not includable in the member's gross income by
16 virtue of the member having taken a voluntary salary reduction provided
17 for under applicable provisions of the Internal Revenue Code; and

18 5. Elective amounts for qualified transportation fringes paid or made
19 available on or after January 1, 2001, for calendar years on or after
20 January 1, 2001, that are not includable in the gross income of the
21 employee by reason of 26 U.S.C. sec. 132(f)(4); and

22 (c) Excludes:

23 1. Living allowances, expense reimbursements, lump-sum payments for
24 accrued vacation leave, sick leave except as provided in KRS 78.616(5),
25 and other items determined by the board;

26 2. For employees who begin participating on or after September 1, 2008,
27 lump-sum payments for compensatory time;

- 1 3. Training incentive payments for city officers paid as set out in KRS
- 2 64.5277 to 64.5279;
- 3 4. For employees who begin participating on or after August 1, 2016,
- 4 nominal fees paid for services as a volunteer; and
- 5 5. Any salary or wages paid to an employee for services as a Kentucky
- 6 State Police school resource officer as defined by KRS 158.441;

7 (14) "Final compensation" means:

- 8 (a) For a member who begins participating before September 1, 2008, who is
- 9 employed in a nonhazardous position, the creditable compensation of the
- 10 member during the five (5) fiscal years he or she was paid at the highest
- 11 average monthly rate divided by the number of months of service credit during
- 12 that five (5) year period multiplied by twelve (12). The five (5) years may be
- 13 fractional and need not be consecutive. If the number of months of service
- 14 credit during the five (5) year period is less than forty-eight (48), one (1) or
- 15 more additional fiscal years shall be used;
- 16 (b) For a member who is employed in a nonhazardous position, whose effective
- 17 retirement date is between August 1, 2001, and January 1, 2009, and whose
- 18 total service credit is at least twenty-seven (27) years and whose age and years
- 19 of service total at least seventy-five (75), final compensation means the
- 20 creditable compensation of the member during the three (3) fiscal years the
- 21 member was paid at the highest average monthly rate divided by the number
- 22 of months of service credit during that three (3) year period multiplied by
- 23 twelve (12). The three (3) years may be fractional and need not be
- 24 consecutive. If the number of months of service credit during the three (3)
- 25 year period is less than twenty-four (24), one (1) or more additional fiscal
- 26 years shall be used;
- 27 (c) For a member who begins participating before September 1, 2008, who is

1 employed in a hazardous position, as provided in KRS 61.592, the creditable
2 compensation of the member during the three (3) fiscal years he or she was
3 paid at the highest average monthly rate divided by the number of months of
4 service credit during that three (3) year period multiplied by twelve (12). The
5 three (3) years may be fractional and need not be consecutive. If the number of
6 months of service credit during the three (3) year period is less than twenty-
7 four (24), one (1) or more additional fiscal years, which may contain less than
8 twelve (12) months of service credit, shall be used;

9 (d) For a member who begins participating on or after September 1, 2008, but
10 prior to January 1, 2014, who is employed in a nonhazardous position, the
11 creditable compensation of the member during the five (5) complete fiscal
12 years immediately preceding retirement divided by five (5). Each fiscal year
13 used to determine final compensation must contain twelve (12) months of
14 service credit. If the member does not have five (5) complete fiscal years that
15 each contain twelve (12) months of service credit, then one (1) or more
16 additional fiscal years, which may contain less than twelve (12) months of
17 service credit, shall be added until the number of months in the final
18 compensation calculation is at least sixty (60) months; or

19 (e) For a member who begins participating on or after September 1, 2008, but
20 prior to January 1, 2014, who is employed in a hazardous position as provided
21 in KRS 61.592, the creditable compensation of the member during the three
22 (3) complete fiscal years he or she was paid at the highest average monthly
23 rate divided by three (3). Each fiscal year used to determine final
24 compensation must contain twelve (12) months of service credit. If the
25 member does not have three (3) complete fiscal years that each contain twelve
26 (12) months of service credit, then one (1) or more additional fiscal years,
27 which may contain less than twelve (12) months of service credit, shall be

1 added until the number of months in the final compensation calculation is at
2 least thirty-six (36) months;

3 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
4 calculated during the twelve (12) month period immediately preceding the
5 member's effective retirement date, and shall include employee contributions picked
6 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to
7 the system by the employer and the following equivalents shall be used to convert
8 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
9 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half
10 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
11 (12) months, one (1) year;

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

14 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
15 basis of the actuarial tables adopted by the board. In cases of disability retirement,
16 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
17 to the age of the member, unless the member has chosen the Social Security
18 adjustment option as provided for in KRS 61.635(8), in which case the member's
19 actual age shall be used. For members who begin participating in the system prior to
20 January 1, 2014, no disability retirement option shall be less than the same option
21 computed under early retirement;

22 (18) "Normal retirement date", unless otherwise provided in KRS 78.510 to 78.852,
23 means:

24 (a) For a member with service in a nonhazardous position, the sixty-fifth birthday
25 of a member;

26 (b) For a member with service in a hazardous position who begins participating
27 before September 1, 2008, the first day of the month following a member's

1 fifty-fifth birthday; or

2 (c) For a member with service in a hazardous position who begins participating
3 on or after September 1, 2008, the first day of the month following a member's
4 sixtieth birthday;

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

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

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

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

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

26 (c) Temporary positions that are positions of employment with a participating
27 agency for a period of time not to exceed twelve (12) months and not

1 renewable;

2 (d) Probationary positions which are positions of employment with a participating
3 employer that do not exceed twelve (12) months and that are used uniformly
4 by the participating agency on new employees who would otherwise be
5 eligible for participation in the system. Probationary positions shall not be
6 renewable by the participating employer for the same employee, unless the
7 employee has not been employed with the participating employer for a period
8 of at least twelve (12) months; or

9 (e) Part-time positions that are positions that may be permanent in duration, but
10 that require less than a calendar or fiscal year average of one hundred (100)
11 hours of work per month, determined by using the number of months actually
12 worked within a calendar or fiscal year, in the performance of duty, except in
13 case of noncertified employees of school boards, the school term average shall
14 be eighty (80) hours of work per month, determined by using the number of
15 months actually worked in a calendar or school year, in the performance of
16 duty;

17 (22) "Alternate participation plan" means a method of participation in the system as
18 provided for by KRS 78.530(3);

19 (23) "Retired member" means any former member receiving a retirement allowance or
20 any former member who has on file at the retirement office the necessary
21 documents for retirement benefits and is no longer contributing to the system;

22 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
23 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
24 pay. The rate shall be certified by the employer;

25 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
26 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
27 in the event of the member's death. As used in KRS 78.5536, beneficiary shall not

- 1 mean an estate, trust, or trustee;
- 2 (26) "Recipient" means the retired member, the person or persons designated as
3 beneficiary by the member and drawing a retirement allowance as a result of the
4 member's death, or a dependent child drawing a retirement allowance. An alternate
5 payee of a qualified domestic relations order shall not be considered a recipient,
6 except for purposes of KRS 61.623;
- 7 (27) "Person" means a natural person;
- 8 (28) "School term or year" means the twelve (12) months from July 1 through the
9 following June 30;
- 10 (29) "Retirement office" means the Kentucky Public Pensions Authority office building
11 in Frankfort, unless otherwise designated by the Kentucky Public Pensions
12 Authority;
- 13 (30) "Vested" for purposes of determining eligibility for purchasing service credit under
14 KRS 61.552 means the employee has at least forty-eight (48) months of service if
15 age sixty-five (65) or older or at least sixty (60) months of service if under the age
16 of sixty-five (65). For purposes of this subsection, "service" means service in the
17 systems administered by the Kentucky Retirement Systems and County Employees
18 Retirement System;
- 19 (31) "Participating" means an employee is currently earning service credit in the system
20 as provided in KRS 78.615;
- 21 (32) "Month" means a calendar month;
- 22 (33) "Membership date" means the date upon which the member began participating in
23 the system as provided in KRS 78.615;
- 24 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
25 retired member, as defined by subsection (23) of this section;
- 26 (35) "Qualified domestic relations order" means any judgment, decree, or order,
27 including approval of a property settlement agreement, that:

- 1 (a) Is issued by a court or administrative agency; and
- 2 (b) Relates to the provision of child support, alimony payments, or marital
- 3 property rights to an alternate payee;
- 4 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
- 5 participant, who is designated to be paid retirement benefits in a qualified domestic
- 6 relations order;
- 7 (37) "Accumulated employer credit" means the employer pay credit deposited to the
- 8 member's account and interest credited on such amounts as provided by KRS
- 9 78.5512 and 78.5516;
- 10 (38) "Accumulated account balance" means:
- 11 (a) For members who began participating in the system prior to January 1, 2014,
- 12 the member's accumulated contributions; or
- 13 (b) For members who began participating in the system on or after January 1,
- 14 2014, in the hybrid cash balance plan as provided by KRS 78.5512 and
- 15 78.5516, the combined sum of the member's accumulated contributions and
- 16 the member's accumulated employer credit;
- 17 (39) "Volunteer" means an individual who:
- 18 (a) Freely and without pressure or coercion performs hours of service for an
- 19 employer participating in one (1) of the systems administered by Kentucky
- 20 Retirement Systems or the County Employees Retirement System without
- 21 receipt of compensation for services rendered, except for reimbursement of
- 22 actual expenses, payment of a nominal fee to offset the costs of performing
- 23 the voluntary services, or both; and
- 24 (b) If a retired member, does not become an employee, leased employee, or
- 25 independent contractor of the employer for which he or she is performing
- 26 volunteer services for a period of at least twelve (12) months following the
- 27 retired member's most recent retirement date;

- 1 (40) "Nominal fee" means compensation earned for services as a volunteer that does not
2 exceed five hundred dollars (\$500) per month. Compensation earned for services as
3 a volunteer from more than one (1) participating employer during a month shall be
4 aggregated to determine whether the compensation exceeds the five hundred dollars
5 (\$500) per month maximum provided by this subsection;
- 6 (41) "Nonhazardous position" means a position that does not meet the requirements of
7 KRS 78.5520 or has not been approved by the board as a hazardous position;
- 8 (42) "Hazardous position" means a position that meets the requirements of KRS 78.5520
9 and has been approved by the board as hazardous;
- 10 (43) "Level-percentage-of-payroll amortization method" means a method of determining
11 the annual amortization payment on the unfunded actuarial accrued liability as
12 expressed as a percentage of payroll over a set period of years. Under this method,
13 the percentage of payroll shall be projected to remain constant for all years
14 remaining in the set period and the unfunded actuarially accrued liability shall be
15 projected to be fully amortized at the conclusion of the set period;
- 16 (44) "Increment" means twelve (12) months of service credit which are purchased. The
17 twelve (12) months need not be consecutive. The final increment may be less than
18 twelve (12) months;
- 19 (45) "Last day of paid employment" means the last date employer and employee
20 contributions are required to be reported in accordance with KRS 16.543, 61.543, or
21 78.615 to the retirement office in order for the employee to receive current service
22 credit for the month. Last day of paid employment does not mean a date the
23 employee receives payment for accrued leave, whether by lump sum or otherwise, if
24 that date occurs twenty-four (24) or more months after previous contributions;
- 25 (46) "Objective medical evidence" means reports of examinations or treatments; medical
26 signs which are anatomical, physiological, or psychological abnormalities that can
27 be observed; psychiatric signs which are medically demonstrable phenomena

- 1 indicating specific abnormalities of behavior, affect, thought, memory, orientation,
2 or contact with reality; or laboratory findings which are anatomical, physiological,
3 or psychological phenomena that can be shown by medically acceptable laboratory
4 diagnostic techniques, including but not limited to chemical tests,
5 electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- 6 (47) "Hazardous disability" as used in KRS 78.510 to 78.852 means a disability which
7 results in an employee's total incapacity to continue as an employee in a hazardous
8 position, but the employee is not necessarily deemed to be totally and permanently
9 disabled to engage in other occupations for remuneration or profit;
- 10 (48) "Act in line of duty" means, for purposes of members serving in a hazardous
11 position, an act occurring which was required in the performance of the principal
12 duties of the hazardous position as defined by the job description;
- 13 (49) "Dependent child" means a child in the womb and a natural or legally adopted child
14 of the member who has neither attained age eighteen (18) nor married or who is an
15 unmarried full-time student who has not attained age twenty-two (22). Solely in the
16 case of a member who dies as a direct result of an act in line of duty as defined in
17 this section or who dies as a result of a duty-related injury as defined in KRS
18 61.621, "dependent child" also means a naturally or legally adopted disabled child
19 of the member, regardless of the child's age, if the child has been determined to be
20 eligible for federal Social Security disability benefits or is being claimed as a
21 qualifying child for tax purposes due to the child's total and permanent disability;
- 22 (50) "Normal retirement age" means the age at which the member meets the
23 requirements for his or her normal retirement date as provided by subsection (18) of
24 this section;
- 25 (51) "Disability retirement date" means the first day of the month following the last day
26 of paid employment;
- 27 (52) "Monthly average pay" means:

- 1 (a) In the case of a member who dies as a direct result of an act in line of duty as
 2 defined in KRS 16.505 or who dies as a result of a duty-related injury as
 3 defined in KRS 61.621, the higher of the member's monthly final rate of pay
 4 or the average monthly creditable compensation earned by the deceased
 5 member during his or her last twelve (12) months of employment; or
- 6 (b) In the case where a member becomes totally and permanently disabled as a
 7 direct result of an act in line of duty as defined in KRS 16.505 or becomes
 8 disabled as a result of a duty-related injury as defined in KRS 61.621 and is
 9 eligible for the benefits provided by KRS 61.621(5)(a), the higher of the
 10 member's monthly final rate of pay or the average monthly creditable
 11 compensation earned by the disabled member during his or her last twelve
 12 (12) months of employment prior to the date the act in line of duty or duty-
 13 related injury occurred;
- 14 (53) "Authority" means the Kentucky Public Pensions Authority as provided by KRS
 15 61.505; and
- 16 (54) "Executive director" means the executive director of the Kentucky Public Pensions
 17 Authority.
- 18 ➔Section 16. If any provision of this Act or its application to any person or
 19 circumstance is held invalid by a court of competent jurisdiction, the invalidity does not
 20 affect other provisions or applications of this section that can be given effect without the
 21 invalid provision or application, and to this end the provisions of this Act are severable.