

**CHAPTER 389****(HB 668)**

AN ACT relating to school finance.

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

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

- (1) *The local district superintendent shall appoint a finance officer who shall be responsible for the cash, investment, and financial management of the school district.***
- (2) *The school finance officer shall be required to complete forty-two (42) hours of continuing education every two (2) years from a provider approved by the Department of Education.***

Section 2. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

- (1) "Average daily attendance" means the aggregate days attended by pupils in a public school, adjusted for weather-related low attendance days if applicable, divided by the actual number of days the school is in session, after the five (5) days with the lowest attendance have been deducted.
  - (a) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year; and
  - (b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of one hundred seventy-five (175) days. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;
- (2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;
- (3) "Board" means the board of education of any county or independent school district;
- (4) "District" means any school district as defined by law;
- (5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;
- (6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;
- (7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

- (8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;
- (9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the *commissioner of education*~~[chief state school officer]~~. The *commissioner of education*~~[chief state school officer]~~ shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;
- (10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year;
- ~~(11) "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;~~
- ~~(12)~~ "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;
- ~~(12)~~~~(13)~~ "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;
- ~~(13)~~~~(14)~~ "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;
- ~~(14)~~~~(15)~~ "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year;

- (15)~~(16)~~ "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board; and
- (16)~~(17)~~ "Weather-related low attendance day" means a school day on which the district's attendance falls below the ~~percentage of~~ average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the **commissioner of education**~~[Kentucky Board of Education]~~ in accordance with **Kentucky Board of Education**~~[its]~~ administrative regulations.

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

- (1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.
- (2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:
  - (a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay a hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;
  - (b) The number and types of exceptional children in the district as defined by KRS 157.200.~~[ No later than October 1, 1993,]~~ Specific weights for each category of exceptionality~~[ shall be developed by the Department of Education and]~~ shall be used in the calculation of the add-on factor for exceptional children~~[. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs];~~ and
  - (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370.~~[ No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education.]~~ Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.
- (3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.~~[ No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty five percent (25%) in either year.]~~

- (4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:
1. Twenty-four (24) in primary grades (kindergarten through third grade);
  2. Twenty-eight (28) in grade four (4);
  3. Twenty-nine (29) in grades five (5) and six (6);
  4. Thirty-one (31) in grades seven (7) to twelve (12);
- (b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.
- (c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).
- (d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.
- (5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.
- (6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

- (7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.
- (8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.
- (9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.
- (10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).
- (11) (a) Instructional salaries for vocational agriculture classes shall be ~~allotted~~ for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education. ~~Salary allotments for vocational agriculture teachers shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty five (185) day school year for teachers with comparable qualifications and experience.~~ During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.
  - (b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture

teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

~~[(c) For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.]~~

- (12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and
- (b) Pursuant to administrative regulations of the *Kentucky Board*~~{Department}~~ of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported *annually*~~{monthly}~~ on forms provided by the Department of Education.
- (13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

Section 4. KRS 157.390 is amended to read as follows:

- (1) (a) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in rank as follows:

Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work; and those teachers who have met the requirements for Rank II and hold current certification of the National Board for Professional Teaching Standards.

Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.

Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.

Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.

Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

- (b) In determining ranks, the chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The chief state school officer, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.
- (c) Nothing in this subsection shall allow the Kentucky Board of Education by regulation to reclassify downward any teachers currently in Ranks I or II.
- (2) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in each rank by their years of experience for purposes of the state teacher salary schedule as follows:
1. Zero (0) to three (3) years;
  2. Four (4) to nine (9) years;
  3. Ten (10) to fourteen (14) years; 4. Fifteen (15) to nineteen (19) years; and
  5. Twenty (20) or more years.
- (3) ~~{(a)}~~ The rank and experience of the teacher shall be determined on September 15.
- ~~{(b)}~~ ~~The amount to be included in each school year in the base funding level of a district for teachers' salaries shall be based on the categories of experience in subsection (2) of this section.~~
- (4) The amount to be included in the base funding level for capital outlay shall be determined by multiplying the average daily attendance by the amounts set forth in the biennial budget.
- (5) The amount to be included in the public school fund of each district for transportation shall be determined in accordance with the provisions of KRS 157.370.
- (6) The total amount of money distributable to each district from the public school fund shall ***include the base funding per pupil in average daily attendance, an amount for at-risk students, an amount for the types and numbers of students with disabilities, an amount for students served in home and hospital settings, and*** ~~be the sum of~~ the allotments in subsections ~~{(3)}~~ (4), and (5) of this section, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents (\$0.30) as defined by KRS 157.615(6).
- (7) The Kentucky Board of Education shall create a Kentucky professional compensation plan. The plan shall be designed to compensate all teachers at adequate and competitive salary levels throughout their teaching careers. The plan shall establish progressive salary levels with advancement opportunities based upon the professional skills of the teacher and include

education, rank, years of teaching service, related duties, specialized training, nonteaching experience, length of work year, performance, and any other professionally recognized factors which the board considers relevant. The plan shall be developed during the 1992-94 biennium. Development work shall be conducted by Department of Education staff with support from recognized compensation experts, and staff from the Legislative Research Commission, the Office of Education Accountability, and the Governor's Office of Policy and Management. Upon approval by the Kentucky Board of Education, the new plan and its fiscal impact shall be submitted to the General Assembly.

Section 5. KRS 157.410 is amended to read as follows:

For each school year the Finance and Administration Cabinet, on the certification of the chief state school officer, shall draw warrants on the State Treasurer for the amount of the public school fund due each district. Checks shall be issued by the State Treasurer and transmitted to the Department of Education *or electronically transferred* for distribution to the proper officials of the school districts when the districts have fully complied with the school laws and administrative regulations of the Kentucky Board of Education. The chief state school officer shall determine on or before August 15 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.310 to 157.440. On July 1, August 1, and September 1, of each fiscal year, one-twelfth (1/12) of the prior year's allotment minus the capital outlay shall be paid each school district. On the first of each month thereafter until the final calculation is completed, one-twelfth (1/12) of each district's share of the tentative calculation *minus capital outlay* ~~for instructional salaries, current expenses, and transportation of the public school fund~~ shall be distributed. On or before May 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter. ~~Capital outlay shall be made in two (2) payments. The first, on or before October 1, shall be one-half (1/2) of the amount calculated on the tentative allocation for capital outlay. The balance due shall be paid on or before May 1.~~

Section 6. KRS 160.470 is amended to read as follows:

- (1) ~~Each district board of education shall prepare a general school budget in formats prescribed and furnished by the Kentucky Board of Education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the Revenue Cabinet of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.~~
- (2) (a) Notwithstanding any statutory provisions to the contrary, ~~no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could~~



~~have been levied in 1978-79, to the 1978-79 assessment, except as provided in subsection (12) of this section and KRS 157.440. In succeeding years,] no district board of education shall levy a general tax rate[, a voted general tax rate, or a voted building tax rate] which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate[, maximum voted general tax rate, or maximum voted building tax rate, respectively,] that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection (9)[(12)] of this section and KRS 157.440.~~

- (b) If an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the ". . . general tax rate[, maximum voted general tax rate, or maximum voted building tax rate, respectively,] that could have been levied in the preceding year. . .," referred to in subsection (1)[(2)](a) of this section, for purposes of computing the general tax rate[, voted general tax rate, or voted building tax rate] for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

- (2)[(3)] No district board of education shall levy a general tax rate[, voted general tax rate, or voted building tax rate] within the limits imposed in subsection (1)[(2)] of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection (9)[(12)] of this section, KRS 157.440, and KRS 157.621, until the district board of education has complied with the provisions of subsection (7)[(10)] of this section.

- (3)[(4)] ***Upon receipt of property assessments from the Revenue Cabinet, the commissioner of education*** [The chief state school officer] shall certify the following to each district board of education[, by June 30 of each year]:

- (a) The general tax rate[, voted general tax rate, or voted building tax rate] that a district board of education could levy under the provisions of subsection (1)[(2)] of this section, and the amount of revenue expected to be produced[, by each];
- (b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate[, voted general tax rate, or voted building tax rate, and] the amount of revenue expected to be produced[, by each];
- (c) The general tax rate[, voted general tax rate, or voted building tax rate] which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced[, by each].

- (4)[(5)] Upon completion of action on property assessment data, the Revenue Cabinet shall submit certified property assessment data as required in KRS 133.125 to the chief state school officer.

- (5)[(6)] Within thirty (30) days after the district board of education has received its assessment data, ***the rates levied*** [three (3) copies of the budget] shall be forwarded to the Kentucky Board of Education for its approval or disapproval. The failure of the district board of education to

furnish the ~~rates~~~~[budget]~~ within the time prescribed shall not invalidate any levy made thereafter.

~~(6)~~~~(7)~~ — The budget shall be disapproved by the Kentucky Board of Education if it is financially unsound or fails to provide for:

- ~~(a)~~ — Payment of maturing principal and interest on any outstanding voted school improvement bonds of the school district, authorized and issued pursuant to KRS 162.080 and 162.090 with the written approval of the Kentucky Board of Education; or
- ~~(b)~~ — Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of a school district by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the Kentucky Board of Education; or ~~(c)~~ Fails to comply with the law.

— The Kentucky Board of Education shall state the reason for disapproval and the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the Kentucky Board of Education for final approval.

~~(8)~~ — If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax levying authority shall amend its levy so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the Kentucky Board of Education.

~~(9)~~-(a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 30 of each calendar year, each district board of education shall adopt a tentative working budget which shall include a minimum reserve of two percent (2%) of the total budget.

(b) Each district board of education shall submit to the Kentucky Board of Education no later than September 30, a close estimate or working budget which shall conform to the administrative regulations prescribed by the Kentucky Board of Education~~, and which shall be consistent in its major divisions with the general school budget previously prepared~~.

~~(7)~~~~(10)~~-(a) Except as provided in subsection ~~(9)~~~~(12)~~ of this section and KRS 157.440, a district board of education proposing to levy a general tax rate~~, voted general tax rate, or voted building tax rate~~ within the limits of subsection ~~(1)~~~~(2)~~ of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing the following to be published at least twice for two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The general tax rate~~[, voted general tax rate, and voted building tax rate]~~ levied in the preceding year, and the revenue produced by *that rate*~~[those rates]~~;
  2. The general tax rate~~[, voted general tax rate, and voted building tax rate proposed]~~ for the current year, and the revenue expected to be produced by *that rate*~~[those rates]~~;
  3. The compensating general~~[, voted general, and voted building]~~ tax *rate*~~[rates]~~, and the revenue expected from *it*~~[them]~~;
  4. The revenue expected from new property and personal property;
  5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
  6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;
  7. The purpose of the hearing; and
  8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.
- (c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.
- (d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for testimony.
- ~~(8)~~~~(11)~~(a) That portion of a general tax rate~~[, a voted general tax rate, or a voted building tax rate,]~~ except as provided in subsection ~~(9)~~~~(12)~~ of this section, KRS 157.440, and KRS 157.621, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.
- (b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate~~[, voted general tax rate, or voted building tax rate,]~~ except as provided in subsection ~~(9)~~~~(12)~~ of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:
1. The fact that the district board of education has adopted such a rate;
  2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent

(4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

~~(9)~~~~(12)~~(a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents (\$0.30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Revenue Cabinet. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.

(b) If a board fails to comply with *paragraph (a) of this subsection*~~[(12)(a) of this section]~~, its members shall be subject to removal from office for willful neglect of duty pursuant to KRS 156.132.

Section 7. KRS 160.560 is amended to read as follows:

- (1) Each board of education shall elect a treasurer for the board. The board may elect its secretary to serve as treasurer. The board may remove the treasurer from office at any time for cause by a vote of a majority of the members of the board.
- (2) The treasurer shall execute an official bond for the faithful performance of the duties of his office, to be approved by the local board and the *commissioner of education*~~[Kentucky Board of Education]~~. The bond shall be guaranteed by a surety company authorized to do business in this state, and shall be in an amount determined by the board of education in accordance with the *administrative*~~rules and~~ regulations *promulgated by*~~[of]~~ the Kentucky Board of Education. The premium on the bond shall be paid by the board of education. A copy of the bond shall be filed with the board of education and with the *commissioner of education*~~[Kentucky Board of Education. All treasurer's bond forms shall be prepared by the chief state school officer and approved by the Kentucky Board of Education]~~.
- (3) The treasurer shall receive all moneys to which the board is entitled by the Constitution or by the statutes, except as otherwise provided by law, or which may in any way come into its possession, and deposit such funds in the properly designated depository. He shall withdraw such funds from the depository only upon proper order of the board. He shall keep a full and complete account of all funds in such manner and make such reports concerning them as is required by the board of education or by the Kentucky Board of Education. He shall preserve all records relating to the transactions and duties of the office and turn them over to his successor along with all public funds in his hands and all accounts and records after due and proper audit is made by a competent outside agent when he is required to do so by the board of education.
- (4) The treasurer shall issue his check on the depository for payment of all legal claims which have been authorized for payment in accordance with policies previously adopted by the local

board of education and approved by the *commissioner of education*~~[Kentucky Board of Education]~~.

Section 8. KRS 160.570 is amended to read as follows:

- (1) Each board of education shall appoint a bank, trust company, or savings and loan association to serve as its depository, and if its annual receipts from all sources exceed one hundred thousand dollars (\$100,000), it may designate three (3) depositories, except boards of education of school districts in counties containing cities of the first class may designate up to five (5) depositories. The depository may be designated for a period not to exceed two (2) years, and before entering upon its duties shall agree with the board as to the rate of interest to be paid on average daily or monthly balances.
- (2) The depository selected shall, before entering upon its duties, execute bond for the faithful performance of its duties, to be approved by the local board of education *in accordance with Kentucky Board of Education administrative regulations, and to be approved by the commissioner of education*~~[and the Kentucky Board of Education]~~. The bond shall be guaranteed by at least five (5) solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of the state and the bonding laws applying to the safeguarding of state funds. The penal sum of the depository bond shall be determined by the board of education in accordance with the *administrative*~~[rules and]~~ regulations *promulgated by*~~[of]~~ the Kentucky Board of Education. A board of education may enter into an agreement with its depository whereby the premium on a bond guaranteed by a surety company may be paid either by the board or by the depository. If the board pays the premium, the depository shall allow the board not less than two percent (2%) interest on its average daily or average monthly balances. All depository bond forms shall be prepared by the chief state school officer and approved by the Kentucky Board of Education.
- (3) The depository shall hold for the board all funds deposited by the treasurer of the board or its tax collector or duly authorized agent, subject to withdrawal by the board at any time, and shall pay all funds so deposited to such person and in such manner as the board directs. The depository shall keep full and complete accounts of all of the board's funds, and make reports to the board or its authorized agents upon request. The depository shall keep all records relating to the transactions and duties of the office and turn them over to the successor of its office along with all school funds in hand. The board of education may at any time require a due and proper audit of the depository's records of the funds of the board by a competent outside agent.
- (4) A board of education may designate as its depository the authorized and bonded depository of the governing authority of the territory which the school district embraces. In such cases, the bond of the depository shall be made to cover specifically the safekeeping of the school board's funds, and all conditions set out in this section shall be carried out.

Section 9. KRS 157.440 is amended to read as follows:

- (1) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after July 1, 1990, the board of education of each school district may levy an equivalent tax rate as defined in subsection ~~(9)~~~~(12)~~(a) of KRS 160.470 which will produce up to fifteen percent (15%) of those revenues guaranteed by the program to support education

excellence in Kentucky. The levy for the 1990-91 school year shall be made no later than October 1, 1989, and no later than October 1, 1990, for the 1991-92 school year, and by October 1 of each odd-numbered year thereafter. Effective with the 1990-91 school year, revenue generated by this levy shall be

equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment.

- (b) To participate in the Facilities Support Program of Kentucky, the board of education of each school district shall commit at least an equivalent tax rate of five cents (\$0.05) to debt service, new facilities, or major renovations of existing school facilities. The five cents (\$0.05) shall be in addition to the thirty cents (\$0.30) required by KRS 160.470(9){(12)} and any levy pursuant to paragraph (a) of this subsection. The levy shall be made no later than October 1 of each odd-numbered year. Eligibility for equalization funds for the biennium shall be based on the district funds committed to debt service on that date. The five cents (\$0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment. The equalization funds shall be committed to debt service to the greatest extent possible, but any excess equalization funds not needed for debt service shall be deposited to a restricted building fund account. The funds may be escrowed for future debt service or used to address categorical priorities listed in the approved facilities plan pursuant to KRS 157.420.
- (c) The board of education of each school district may contribute the levy equivalent tax rate of five cents (\$0.05) and equalization funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, as provided under KRS 45A.353, 56.774, and 58.600 shall be based on the following guidelines:
  - 1. Energy conservation measures shall include facility alteration;
  - 2. Energy conservation measures shall be identified in the district's approved facility plan pursuant to KRS 157.420;
  - 3. The current facility systems are consuming excess maintenance and operating costs;
  - 4. The savings generated by the energy conservation measures are guaranteed;
  - 5. The levy equivalent tax rate of five cents (\$0.05) and equalization funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and
  - 6. The equipment that is replaced has exceeded its useful life as determined by a life cycle cost analysis.
- (d) The rate levied by a district board of education under the provisions of this subsection shall not be subject to the public hearing provisions of KRS 160.470(7){(10)} or to the recall provisions of KRS 160.470(8){(11)}.
- (e) A school district which is at or above the equivalent tax rates permitted under the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall

not be required to levy an equivalent tax rate which is lower than the rate levied during the 1989-90 school year.

- (2) (a) A district may exceed the maximum provided by subsection (1)~~(2)~~ of KRS 160.470 provided that, upon request of the board of education of the district, the county board of elections shall submit to the qualified voters of the district, in the manner of

submitting and voting as prescribed in paragraph (b) of this subsection, the question whether a rate which would produce revenues in excess of the maximum provided by subsection (1)~~(2)~~ of KRS 160.470 shall be levied. The rate that may be levied under this section may produce revenue up to no more than thirty percent (30%) of the revenue guaranteed by the program to support education excellence in Kentucky plus the revenue produced by the tax authorized by this section. Revenue produced by this levy shall not be equalized with state funds. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy a rate not to exceed the rate authorized by the voters.

- (b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county clerk, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district.

- (3) For the 1966 tax year and for all subsequent years for levies which were approved prior to December 8, 1965, no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (4) of this section and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

- (4) Notwithstanding the limitations contained in subsection (3) of this section, no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapter 162.

- (5) The chief state school officer shall certify the compensating tax rate to the levying authorities.

Section 10. KRS 157.621 is amended to read as follows:

- (1) Local school districts that have experienced student population growth during a five (5) year period may levy a five cents (\$0.05) tax for debt service and new facilities in addition to the five cents (\$0.05) levied under the school construction funding program provided in KRS 157.620. The tax rate levied by the district under this provision shall not be subject to a recall vote as provided in KRS 160.470~~(8)~~~~(11)~~ and shall not be equalized by state funding.

- (2) A local school district shall meet the following criteria in order to levy the tax provided in subsection (1) of this section:
- (a) Growth of at least one hundred fifty (150) students in average daily attendance and three percent (3%) overall growth for the five (5) preceding years;
  - (b) Bonded debt to the maximum capability of at least eighty percent (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;
  - (c) Current student enrollment in excess of available classroom space; and
  - (d) A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission.
- (3) When the state appropriations amount to the total cost of equalizing the five cents (\$0.05) at the rate prescribed in KRS 157.620, as evidenced in the biennial budget and the budget memorandum, the provisions of this section shall expire.

Section 11. KRS 160.473 is amended to read as follows:

- (1) In the event that a general tax rate~~[, voted general tax rate, or voted building tax rate]~~ applicable to real property levied by a district board of education will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the district board of education may levy a general tax rate~~[, voted general tax rate, or voted building tax rate]~~ applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, in no event shall the general tax rate~~[, voted general tax rate, or voted building tax rate]~~ levied by the district board of education applicable to personal property exceed the prior year general tax rate~~[, voted general tax rate, or voted building tax rate]~~ applicable to personal property levied by the respective district board of education.
- (2) The general tax rate~~[, voted general tax rate, or voted building tax rate]~~ applicable to personal property levied by a district board of education under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 160.470(7)~~[(10)]~~ and to the recall provisions of KRS 160.470(8)~~[(11)]~~.

Section 12. KRS 160.475 is amended to read as follows:

- (1) Except as otherwise provided in KRS 157.440, 160.470(1)~~[(2)]~~, and 160.476(4), the ad valorem tax levy for school purposes, other than sinking fund purposes, in each school district, shall be not more than one dollar and fifty cents (\$1.50) annually on each one hundred dollars (\$100) of property subject to local taxation.
- (2) All existing subdistrict school tax levies, except those required to retire voted bonds, are hereby abolished.

Section 13. The following KRS section is repealed:

160.474 Cumulative increase for 1982-83 only -- Limit -- Public hearing and recall not applicable.

**Approved April 7, 2000**