

CHAPTER 126**(SB 147)**

AN ACT relating to the Kentucky Department of Education and declaring an emergency.

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

Section 1. 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 for:
 1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and
 2. 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. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children; and
 - (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. 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.
- (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 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 ***Career and Technical***~~Secondary Vocational~~ Education in the Department of Education. 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.
- (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 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 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.
- (14) Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.

Section 2. The General Assembly hereby confirms Executive Order 2001-795, dated June 25, 2001, to the extent it is not otherwise confirmed by this Act, that reorganizes the Department of Education to include the Office of the Commissioner; the Bureau of Management Support Services which is renamed the Bureau of Operations and Support Services, including the Office of Budget and Financial Management which is renamed the Office of Internal Administration and Support, consisting of a Division of Budgets, Division of Financial and Materials Management, a Division of Administrative Services which is transferred from the Office of Human Resources and Equity, the Division of Human Resources which is transferred from the Office of Human Resources and Equity; the Office of Legal Services which is renamed the Office of Legal and Legislative Services, including the Division of Management Assistance Programs which is transferred from the Office of District Support Services; an Office of Communications, consisting of the Division of Public Information which is renamed the Division of Publications and Web Services, the Division of Media Services which is renamed the Division of Video and Multi-Media Services, and abolishes the Division of Community Relations; an Office of Results Planning, including the Division of Virtual Learning and the Division of Data Policy Management and Research; the Bureau of Learning Support Services which is renamed the Bureau of Learning and Results Services, including the Office of Special Instructional Services, consisting of the Division of Exceptional Children Services, the Division of Secondary Vocational Education which is renamed the Division of Career and Technical Education, the Division of Program Services which is renamed the Division of Federal Programs Services, the Division of the Kentucky School for the Blind, and the Division of the Kentucky School for the Deaf; an Office of Leadership and School Improvement, consisting of the Division of Instructional Leadership Development which is renamed the Division of Leadership Development and the Division of School Improvement; the Office of Supportive Learning Environments, consisting of the Division of Minority Educator Recruitment and Retention which is renamed the Division of Educator Recruitment and Retention; the Division of Equity which is transferred from the Office of Human Resources and Equity, the Division of Student, Family and Community Support which is transferred from the Office of District Support Services; the Office of Assessment and Accountability consisting of the Division of Assessment Implementation and the Division of Validation and Research; the Office of Academic and Professional Development consisting of the Division of Region One Service Center, the Division of Region Two Service Center, the Division of Region Four Service Center, the Division of Region Five Service Center, the Division of Region Six Service Center, the Division of Region Seven Service Center, the Division of Region Eight Service Center, the Division of Curriculum Development, and the Division of Extended Learning Services which is transferred from the Office of Supportive Learning Environments; the Office of District Support Services which is transferred from the Bureau of Management Support

Services consisting of the Division of School Finance, the Division of Facilities Management, the Division of Pupil Transportation, and the Division of School and Community Nutrition; the Office of Education Technology which is transferred from the Bureau of Management Support Services, consisting of the Division of Planning Services which is renamed the Division of School Information Technology, the Division of System Support Services which is renamed the Division of School Network Services, the Division of Customer Support Services which is renamed the Division of School Instructional Technology; abolishes the Division of Integration Services; transfers relevant duties, functions, responsibilities, records, equipment, facilities and support budgets of the department to the appropriate organizational units.

Section 3. Whereas many counties have experienced disastrous flooding that has destroyed homes and businesses, closed or destroyed roads, disrupted families and work and which will necessitate school closures for many days, the commissioner of education, notwithstanding any other statute to the contrary or administrative regulation to the contrary, shall approve the request for all disaster days from a school district for those days missed because of flooding above five (5) days missed for that reason during the 2002 spring semester.

Section 4. Whereas school districts must know how to adjust the school calendar for the remaining part of the school year, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 2, 2002