

CHAPTER 135**(HB 402)**

AN ACT relating to teachers and declaring an emergency.

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

Section 1. KRS 157.420 is amended to read as follows:

Public school funds made available to the credit of each district during any year shall be received, held, and expended by the district board, subject to the provisions of law and administrative regulations of the Kentucky Board of Education. The following restrictions shall govern the expenditure of funds from the public school fund:

- (1) The salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days for full-time service during the regular school year.
- (2) ***Beginning with the 2004-2006 biennium***, the Kentucky Board of Education shall not approve any working budget or salary schedule for local boards of education for any school year unless the one hundred eighty-five (185) day salary schedule for certified staff has been adjusted over the previous year's salary schedule by ***a percentage increase at least equal to the cost-of-living adjustment that is provided state government workers under the biennial budget. The base funding level in the program for support education excellence in Kentucky as defined in KRS 157.320 shall be increased by the statewide dollar value of the annual required cost-of-living percentage adjustment that shall be estimated on the sum of the previous year's statewide teachers' salaries***~~the lesser of:~~
 - ~~(a) The percent increase in the average annual consumer price index for all urban consumers between the two (2) most recent calendar years, as published by the United States Bureau of Labor Statistics and stated in the statutory budget memorandum and the biennial budget report; or~~
 - ~~(b) The percent increase of the base funding level in the program for support education excellence in Kentucky as defined in KRS 157.320].~~
- (3) A district that compensates its teachers or employees for unused sick leave at the time of retirement, pursuant to KRS 161.155, may create an escrow account to maintain the amount of funds necessary to pay teachers or employees who qualify for receipt of the benefit. The fund is limited to not more than fifty percent (50%) of the maximum liability for the current year to be determined according to the number of staff employed by the district on September 15. Interest generated by the account shall be calculated as part of the total amount. The funds shall not be used for any purpose other than compensation for unused sick leave at the time of retirement and shall not be considered as part of the general fund balance in determining available local revenue for purposes of KRS 157.620.
- (4) The per pupil capital outlay allotment for each district from the public school fund and from local sources shall be kept in a separate account and may be used by the district only for capital outlay projects approved by the chief state school officer in accordance with requirements of law, and based on a survey made in accordance with administrative regulations of the Kentucky Board of Education. These funds shall be used for the following capital outlay purposes:
 - (a) For direct payment of construction costs;

- (b) For debt service on voted and funding bonds;
 - (c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;
 - (d) For the retirement of any deficit resulting from overexpenditure for capital construction, if such deficit resulted from an emergency declared by the Kentucky Board of Education under KRS 160.550; and
 - (e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.
- (5) The district may contribute capital outlay funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, provided in KRS 45A.353, 56.774, and 58.600, shall be based on the following:
- (a) The energy conservation measures shall include facility alteration;
 - (b) The energy conservation measures shall be identified in the district's approved facility plan;
 - (c) The current facility systems are consuming excess maintenance and operating costs;
 - (d) The savings generated by the energy conservation measures are guaranteed;
 - (e) The capital outlay 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
 - (f) The equipment that is replaced shall have exceeded its useful life as determined by a life-cycle cost analysis.
- (6) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the chief state school officer under administrative regulations of the Kentucky Board of Education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the School Facilities Construction Commission funds.
- (7) If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (4) of this section, upon approval of the chief state school officer, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses, and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers, and other technological hardware to be utilized for educational purposes only.
- (8) In surveying the schools, the Department of Education shall designate each school facility as a permanent, functional, or transitional center.
- (a) "Permanent center" means a center which meets the program standards approved by the Kentucky Board of Education, is located so that students are not subjected to an excessive amount of time being transported to the site, and has established an attendance area which will maintain enrollment at capacity but will also avoid overcrowding.

- (b) "Functional center" means a center which does not meet all the criteria established for a permanent facility, but is adequate to meet accreditation program standards to insure no substantial academic or building deficiency. The facility plan shall include additions and renovations necessary to meet current accreditation standards for which federal, state, and local funds may be used.
 - (c) "Transitional center" means a center which the local board of education has determined shall no longer be designated permanent or functional. The center shall be destined to be closed and shall not be eligible for new construction, additions, or major renovation. However, the board of education shall maintain any operating transitional center to provide a safe and healthy environment for students.
- (9) If a local school board authorized elementary, middle, or secondary education classes in a facility of a historical settlement school on January 1, 1994, the board shall continue to use the facilities provided by the settlement school if the facilities meet health and safety standards for education facilities as required by administrative regulations. The local school board and the governing body of the settlement school shall enter into a cooperative agreement that delineates the role, responsibilities, and financial obligations for each party.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section, "compensation" means the combination of base salary, salary supplements, and other benefits provided a teacher.*
- (2) (a) *A school district may develop differentiated compensation programs that provide additional compensation above the single salary schedule described in Section 1 of this Act and defined in KRS 157.320. Differentiated compensation plans shall have one (1) or more of the following purposes: to recruit and retain teachers in critical shortage areas, to help reduce the number of emergency certified teachers employed in the district, to provide incentives to recruit and retain highly skilled teachers to serve in difficult assignments and hard-to-fill positions, to provide career advancement opportunities for classroom teachers who voluntarily wish to participate, or to reward teachers for increasing their skills, knowledge, and instructional leadership within the district or school.*
- (b) *The Kentucky Board of Education shall promulgate administrative regulations defining the factors that may be included in a differentiated compensation plan and procedures that shall be used in the development and approval of differentiated compensation plans.*
- (3) (a) *There is hereby established a professional compensation fund in the State Treasury. Beginning in the 2002-2004 biennium and thereafter, the fund shall be used to provide grants to school districts to pilot differentiated compensation programs for teachers. During the 2002-2004 biennium, the fund shall provide grants to at least five (5) school districts for a two (2) year period. The number of grants may increase or decrease based on the funds available and as deemed feasible by the Kentucky Department of Education.*
- (b) *The district grants shall be used for one (1) or more of the purposes described in subsection (2)(a) of this section.*
- (c) *The professional compensation fund may receive state appropriations, gifts, and grants from public and private sources, and federal funds. Any unallotted or*

unencumbered balances in the fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated for the purposes specified in this section.

- (d) *The fund shall be administered by the Kentucky Department of Education and shall be distributed on the basis of criteria promulgated in an administrative regulation by the Kentucky Board of Education. The administrative regulation shall specify the maximum size of grants, the application and selection process, the obligations of the local board of education, the evaluation and data requirements, and other details as deemed necessary by the board.*
- (4) *Upon request, the Kentucky Department of Education shall provide assistance to any district that wishes to develop a differentiated compensation program.*
- (5) *During the 2002-2004 biennium, the Kentucky Department of Education shall gather information and summarize the characteristics and impact of the various differentiated compensation programs. By October 1, 2004, the department shall provide recommendations to the Interim Joint Committee on Education as to the feasibility of establishing a statewide teacher advancement program or other ideas for modifying teacher compensation.*

SECTION 3. A NEW SECTION OF KRS 164.740 TO 164.785 IS CREATED TO READ AS FOLLOWS:

- (1) *For purposes of this section unless the context requires otherwise:*
 - (a) *"Critical shortage area" means an area in which there are insufficient numbers of fully certified staff in a particular subject, school, or geographic location.*
 - (b) *"Emergency certified teacher" means an individual who has not completed certification requirements but has been awarded a temporary certificate for a certification area in which no fully qualified teacher was available.*
 - (c) *"Qualified teacher" means a teacher who holds the appropriate certification for a position unless the superintendent of the employing local school district has documented evidence that the teacher is unsuitable for appointment.*
 - (d) *"Qualified teaching service" means teaching for at least seventy (70) days each semester or the equivalent in the certification area for which an individual received a forgivable loan in the Kentucky school district that recommended the individual for a loan or in another Kentucky private or public school district in the certification area for which an individual received a forgivable loan if no position was available in the recommending school district at the time when the individual completed his or her certification.*
 - (e) *"Semester" means a period which usually makes up one-half (1/2) of a school year or one-half (1/2) of a postsecondary institution's academic year.*
 - (f) *"Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester at a postsecondary education institution.*
- (2) *To increase the number of qualified teachers in local school districts and to reduce the number of emergency certified teachers, there is hereby created the district teacher certification loan fund in the State Treasury. The loans shall be used to provide*

forgivable loans to emergency certified personnel, fully certified teachers who are willing to seek additional certification in hard-to-fill or critical shortage areas, and paraprofessionals in local school districts to become fully certified teachers and to continue service within the local district.

- (3) The fund shall be administered by the Kentucky Higher Education Assistance Authority. The authority shall promulgate administrative regulations to specify the terms and conditions of the award, cancellation, and repayment of loans including, but not limited to, the maximum amount that may be loaned per term and the maximum aggregate amount per applicant, the selection process, eligibility for renewal, the specific administrative procedures for utilizing the funds, and the rate of repayment.*
- (4) To qualify for a forgivable loan, an applicant shall meet the following requirements:*

 - (a) Be employed by a specific local district as a certified teacher, an emergency full-time or part-time teacher, an emergency substitute teacher, or a paraprofessional at the time he or she makes application for the loan;*
 - (b) Be recommended by the superintendent as an individual that he or she would recommend to be employed in a teaching position for which the applicant is pursuing certification if the applicant fulfills all credentialing requirements;*
 - (c) Be endorsed by the school-based decision making council of the school in which he or she serves to receive a loan for the purposes of obtaining teacher certification in a specific certification area; except that the endorsement shall not be construed as a commitment of securing a position in the particular school in the future;*
 - (d) Be admitted and enrolled as an undergraduate or graduate student in a Kentucky private or public postsecondary institution that offers a teacher certification program in the area for which he or she is seeking certification; and*
 - (e) Be enrolled in a minimum of six (6) credit hours and not more than nine (9) credit hours during each semester of an academic term while employed concurrently in the school district and in not less than six (6) credit hours during the summer term. If a school district recommends an applicant for a loan under provisions of this section and grants a leave of absence to the employee to pursue certification, the employee shall be enrolled as a full-time undergraduate or graduate student as defined by the institution in which he or she is enrolled.*
- (5) A participant in a local district alternative certification program as defined in KRS 161.048(2) may be eligible for a loan under provisions of this section to offset costs associated with the program. The authority shall establish by administrative regulation the specific requirements, notwithstanding requirements in subsection (4) of this section.*
- (6) A loan shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.*
- (7) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term for which a loan was received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate portion of the promissory notes.*

- (8) *If the recipient of a loan fails to complete the certification at a participating institution or fails to render qualified teaching service in any semester following certification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of loans under this paragraph shall be liable for interest accruing from the dates on which the loans were disbursed.*
- (9) *Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's certification, subject to the procedures set forth in KRS 161.120.*
- (10) *All moneys repaid to the authority under this section shall be added to the fund in this section. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated for the purposes specified in this section.*
- (11) *The authority may execute appropriate contracts and promissory notes for administering this section.*
- (12) *If available funds are insufficient for all requested loans for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received loans. If funds are insufficient to make all requested renewal loans to eligible applicants, the authority shall reduce all loans to the extent necessary to provide loans to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, priority shall be given to loans for those applicants who are seeking certification in critical shortage areas.*

Section 4. KRS 156.553 is amended to read as follows:

- (1) The Teachers' Professional Growth Fund is hereby created to provide teachers with high quality professional development in content knowledge in ~~the core disciplines of~~ mathematics, science, language arts, ~~and~~ social studies, **arts and humanities, practical living, vocational studies, and foreign languages** as well as teaching methodologies to impart the content to students. During the years 2000 to 2004, priority for funding shall be given to middle school teachers, and, based upon available funds, and in subsequent years, funding shall be made available to teachers in all grade levels in the subject areas listed in this subsection. ~~During the years 2000 to 2002, improving the content knowledge of mathematics by middle school teachers shall be given priority in the use of funds, except that the Department of Education may approve funding for improving teachers' knowledge and skills in other content areas if all funds are not needed for middle school mathematics teachers. In subsequent years,~~ **Based on available funds, student achievement data, and teacher data, the Kentucky Board of Education** ~~Department of Education, under provisions of this section,~~ shall **annually** determine the priority for content emphasis **based on the greatest needs**.
- (2) The fund may provide moneys to teachers for:
 - (a) Tuition reimbursement for successful completion of college or university level courses, **including on-line courses and seminars**, approved for this purpose by the Education Professional Standards Board;
 - (b) Stipends for participation in and successful completion of:

1. College or university courses, *including on-line courses and seminars*, approved for this purpose by the Education Professional Standards Board;
 2. Teacher institutes developed for core content instructors by the Department of Education in compliance with KRS 156.095; and
 3. Other professional development programs approved by the Kentucky Department of Education;~~{and}~~
- (c) ***Reimbursement for the purchase of materials required for professional development programs; and***
- (d) Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:
1. Travel to and from professional development workshops; and
 2. Travel to and from other schools for the observation of, and consultation with, peer mentors.
- (3) The Education Professional Standards Board shall determine the college and university courses, *including on-line courses and seminars*, for which teachers may receive reimbursement from the fund.
- (4) The Department of Education shall:
- (a) Administer the fund. In order to process reimbursements to teachers promptly, the reimbursements shall not be subject to KRS 45A.690 to KRS 45A.725;
 - (b) Determine the professional development programs for which teachers may receive reimbursement from the fund;
 - (c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsection (2) of this section; and
 - (d) Provide an accounting of fund expenditures to the Center for Middle School Academic Achievement, upon request of the center, for use in preparing the center's annual report.
- (5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:
- (a) Focus on improving the content knowledge of ~~{core-discipline}~~ teachers;
 - (b) Provide instruction on teaching methods to effectively impart ~~{core-discipline}~~ content knowledge to all students;
 - (c) Include intensive training institutes and workshops during the summer;
 - (d) Provide programs for the ongoing support of teacher participants throughout the year, which may include:
 1. A peer coaching or mentoring, and assessment program; and
 2. Planned activities, including:
 - a. Follow-up workshops; and

- b. Support networks of teachers of the core disciplines using technologies including, but not limited to, telephone, video, and on-line computer networks; and
- (e) Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers.
- (6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:
 - (a) The application and approval process for receipt of funds;
 - (b) The requirements and process for the disbursement of funds; and
 - (c) The number of each kind of approved course for which applicants may receive funds.
- (7) ***Notwithstanding any other provisions to the contrary, a local school board may advance the funds necessary for its teachers to participate in a college course, or professional development seminar or activity, approved by the Kentucky Department of Education and the Education Professional Standards Board under provisions of this section and receive reimbursement from the department at the conclusion of the activity or course by the teacher. If funds are advanced for the benefit of a teacher under this subsection, but the teacher does not fulfill his or her obligation, the teacher shall reimburse the school district for the funds expended by the district on the teacher's behalf.***
- (8) Notwithstanding the provisions of KRS 45.229, unexpended funds in the Teachers' Professional Growth Fund in the 2000-2001 fiscal year or in any subsequent fiscal year shall not lapse but shall carry forward to the next fiscal year and shall be used for the purposes established in subsections (1) and (2) of this section.

Section 5. KRS 157.390 is amended to read as follows:

- (1) For purposes of the state teacher salary schedule, teachers shall be placed on the schedule based on certification rank as established by the Education Professional Standards Board under KRS 161.1211 and by their years of experience 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.
- (2) The rank and experience of the teacher shall be determined on September 15 of each year.
- (3) 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.
- (4) 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.
- (5) 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 the allotments in subsections (3) and (4) 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).

- (6) A classroom teacher or administrator may be provided additional compensation, *funds for instructional and program materials, and other related costs* for serving as a classroom mentor, teaching partner, or professional development leader in core discipline areas including reading, and other subject areas as appropriate to other education professionals in a state approved program or state approved activities. The Kentucky Department of Education shall administer the funds appropriated for these purposes. The Kentucky Board of Education shall promulgate administrative regulations to define the guidelines for programs and activities that qualify for funds including the application and approval process, the individual participant requirements, the amount of compensation, the timelines, and reporting requirements. The board shall solicit recommendations from the Education Professional Standards Board and staff of the Kentucky Department of Education in developing its administrative regulations.

Section 6. Between July 15, 2002, and August 31, 2003, the Interim Joint Committee on Education shall conduct a study of the effectiveness and efficiency of the principal and teacher internship programs and shall make recommendations to the Legislative Research Commission regarding any changes, including recommendations relating to extending support for new teachers for a second year, stipends for teachers who serve as resource teachers, and other appropriate changes. Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Section 7. Section 1 of this Act takes effect July 1, 2004.

Section 8. Whereas it will require time for the Kentucky Board of Education to develop administrative regulations and school districts to determine whether or not they wish to develop differentiated teacher compensation plans, an emergency is declared to exist, and Sections 2 through 6 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Approved April 2, 2002