

CHAPTER 127**(SB 19)**

AN ACT relating to reading, making an appropriation therefor, and declaring an emergency.

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

Section 1. This Act shall be cited as the "Read to Achieve Act of 2005."

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly hereby finds that reading proficiency is a gateway skill necessary for all of Kentucky students to achieve the academic goals established in KRS 158.6451. It is Kentucky's goal that all children learn to read well before exiting the primary program.*
- (2) *It is the intent of the General Assembly that every elementary school:*
- (a) *Provide a comprehensive schoolwide reading program;*
 - (b) *Provide diagnostic reading assessments and intervention services for those students who need them to learn to read at the proficient level;*
 - (c) *Ensure quality instruction by highly trained teachers; and*
 - (d) *Provide high quality library media programs.*

Section 3. KRS 158.792 is amended to read as follows:

- (1) As used in this section and KRS 164.0207, unless the context requires otherwise:
- (a) *"Comprehensive reading program" means a program that emphasizes the essential components of reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read.* ~~"Reading" means the process of comprehending the meaning of written text by depending on:~~
 - 1. ~~The ability to use phonics skills, that is, knowledge of letters and sounds, to decode printed words quickly and effortlessly, both silently and aloud;~~
 - 2. ~~The ability to use previously learned strategies for reading comprehension; and~~
 - 3. ~~The ability to think critically about the meaning, message, and aesthetic value of the text.~~
 - (b) *"Reading diagnostic assessment" means an assessment that identifies a struggling reader and measures the reader's skills against established performance levels in the essential components of reading. The purpose is to screen for areas that require intervention in order for the student to learn to read proficiently.*
 - (c) *"Reading intervention program" means short-term intensive instruction in the essential skills necessary to read proficiently that is provided to a student by a highly trained teacher. This instruction may be conducted one-on-one or in small groups, shall be research-based, reliable, and replicable, and shall be based on the ongoing assessment of individual student needs.*
 - (d) "Reliable, replicable research" means objective, valid, scientific studies that:

1. Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;
 2. Rely on measurements that meet established standards of reliability and validity;
 3. Test competing theories, where multiple theories exist;
 4. Are subjected to peer review before their results are published; and
 5. Discover effective strategies for improving reading skills.
- (2) The *reading diagnostic and intervention*~~[early reading incentive]~~ fund is created to *help teachers and library media specialists* improve the reading skills of *struggling readers*~~[students]~~ in the primary program. The Department of Education, upon the recommendation of the *Reading Diagnostic and Intervention*~~[Early Reading Incentive]~~ Grant Steering Committee, shall provide *renewable, two (2) year* grants to schools to support teachers in the implementation of reliable, replicable research-based reading *intervention programs*~~[models]~~ that use a balance of *diagnostic tools, and* instructional strategies *that emphasize phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read*~~[, including phonics instruction,]~~ to address the diverse learning needs of those students reading at low levels. Any moneys in the fund at the close of the fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.
- (3) (a) *The Kentucky Board of Education shall promulgate administrative regulations, based on recommendations from the secretary of the Education Cabinet, the Reading Diagnostic and Intervention Grant Steering Committee established in Section 4 of this Act, and the Collaborative Center for Literacy Development established in Section 5 of this Act to:*
1. *Identify eligible grant applicants, taking into consideration how the grant program described in this section will relate to other grant programs;*
 2. *Specify the criteria for acceptable diagnostic assessments and intervention programs;*
 3. *Specify the criteria for acceptable ongoing assessment of each child to determine his or her reading progress;*
 4. *Establish the minimum evaluation process for an annual review of each grant recipient's program and progress;*
 5. *Identify the annual data that must be provided from grant recipients;*
 6. *Define the application review and approval process;*
 7. *Establish matching requirements deemed necessary;*
 8. *Define the professional development and continuing education requirements for teachers, library media specialists, administrators, and staff of grant recipients;*
 9. *Establish the conditions for renewal of a two (2) year grant; and*
 10. *Specify other conditions necessary to implement the purposes of this section.*
- (b) *The board shall require that a grant applicant provide assurances that the following principles will be met if the applicant's request for funding is approved:*

1. *A research-based comprehensive schoolwide reading program will be available;*
 2. *Intervention services will supplement, not replace, regular classroom instruction;*
 3. *Intervention services will be provided to struggling primary program readers within the school based upon ongoing assessment of their needs; and*
 4. *A system for informing parents of struggling readers of the available family literacy services within the district will be established*~~[Upon recommendation of the Early Reading Incentive Grant Steering Committee, the state board shall establish by promulgation of an administrative regulation in accordance with provisions of KRS Chapter 13A an application process and the criteria for funding grants. The application shall include, but not be limited to, the following:~~
 - ~~(a) Identification of the research-based model to be implemented;~~
 - ~~(b) The method for identifying qualified students to be served;~~
 - ~~(c) An implementation plan and timeline, including supporting professional development efforts;~~
 - ~~(d) A plan for evaluation to assess the short-term and long-term success of the program;~~
 - ~~(e) A budget; and~~
 - ~~(f) Approval of the application by the school council if one exists, the principal, and the superintendent of schools].~~
- (4) In order to qualify for funding, the school council, or if none exists, the *principal or the superintendent of schools*, shall allocate matching funds *required by grant recipients under subsection (3) of this section*. Funding for professional development allocated to the school council under KRS 160.345 and for continuing education under KRS 158.070 may be used as part of the school's match.
- (5) The Department of Education shall make available to schools:
- (a) Information concerning successful, research-based *comprehensive*~~early~~ reading *programs, diagnostic tools for pre- and post-assessment, and intervention programs*~~[models including phonics instruction]~~, from the Collaborative Center for Literacy Development created under KRS 164.0207;
 - (b) Strategies for successfully implementing early reading programs, including professional development support and the identification of funding sources; and
 - (c) A list of professional development providers offering teacher training related to *reading that emphasizes the essential components for successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read*~~[phonics instruction]~~.
- (6) The Department of Education shall submit a report to the Interim Joint Committee on Education no later than September 1 of each year outlining the use of grant funds~~[and a summary of the program's evaluation conducted by the Collaborative Center for Literacy Development under KRS 164.0207]~~. *The report shall also include comparisons of the overall costs and effectiveness of intervention programs. The annual report for an odd-*

numbered year shall include an estimate of the cost to expand the reading diagnostic and intervention grant program.

Section 4. KRS 158.794 is amended to read as follows:

- (1) The *Reading Diagnostic and Intervention*~~[Early Reading Incentive]~~ Grant Steering Committee is hereby created for the purpose of advising the Kentucky Board of Education and the Department of Education concerning the implementation and administration of the ~~early~~ reading *diagnostic and intervention*~~[incentive grant]~~ fund created *in Section 3 of this Act*~~[by KRS 158.792]~~. The committee shall be composed of *sixteen (16)*~~[fifteen (15)]~~ members including the commissioner of education or the commissioner's designee, the *executive director of the Collaborative Center for Literacy Development*, the president of the Council on Postsecondary Education or the president's designee,~~[the commissioner of the Department for Adult Education and Literacy or the commissioner's designee,]~~ and the following members, to be appointed by the Governor:
 - (a) *Four (4)*~~[Two (2)]~~ primary program teachers with a specialty or background in reading and literacy;
 - (b) *Four (4)*~~[Eight (8)]~~ university *or college* professors with a specialty or background in reading and literacy representing~~[each of the public]~~ universities;~~[and]~~
 - (c) *One (1) elementary school principal;*
 - (d) *One (1) certified library media specialist; and*
 - (e) *Three (3)*~~[Two (2)]~~ individuals from the state at large with *an*~~[background and]~~ interest in reading and literacy.
- (2) Each member of the committee, other than members who serve by virtue of their position, shall serve for a term of three (3) years or until a successor is appointed ~~[and qualified]~~, except that upon initial appointment, *five (5)*~~[four (4)]~~ members shall serve a one (1) year term, four (4) members shall serve a two (2) year term, and four (4) members shall serve a three (3) year term.
- (3) A majority of the full authorized membership shall constitute a quorum.
- (4) The committee shall elect, by majority vote, a chair, who shall be the presiding officer of the committee, preside at all meetings, and coordinate the functions and activities of the committee. The chair shall be elected or reelected each calendar year.
- (5) The committee shall be attached to the Department of Education for administrative purposes.
- (6) The committee shall:
 - (a) Identify needs, *trends, and issues* in schools throughout the state regarding reading and literacy programs;
 - (b) *Make recommendations regarding the content of administrative regulations to be promulgated by the Kentucky Board of Education under Section 3 of this Act;*~~[Develop criteria for the solicitation, review, and approval of grant applications provided under KRS 158.792;~~
 - ~~(c) Develop a process for monitoring grants that are awarded; and]~~

- (c)~~(d)~~ Recommend approval of grant applications based upon *the provisions of Section 3 of this Act and administrative regulations promulgated by the Kentucky Board of Education as required under Section 3 of this Act; and*
- (d) *Advise the Kentucky Board of Education and the Department of Education regarding costs and effectiveness of various reading intervention programs*~~criteria established by the committee~~.

Section 5. KRS 164.0207 is amended to read as follows:

- (1) The Collaborative Center for Literacy Development: Early Childhood through Adulthood is created to make available *professional development*~~training~~ for educators in reliable, replicable research-based reading *programs*~~models~~, and to promote literacy development, *including cooperating with other entities that provide family literacy services*. The center shall be responsible for:
- (a) Developing and implementing a clearinghouse for information about *programs*~~models~~ addressing reading and literacy from *early childhood and* the elementary grades (*P-5*) through adult education;
- (b) *Providing advice to the Kentucky Board of Education regarding the Reading Diagnostic and Intervention Grant Program established in Section 3 of this Act and in other matters relating to reading;*
- (c) Collaborating with public and private institutions of postsecondary education and adult education providers to provide for teachers and administrators quality preservice and professional development *relating to reading diagnostic assessments and intervention and to the essential components of successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and the connections between writing and reading acquisition and motivation to read*~~in early reading instruction, including phonics instruction~~;
- (d)~~(e)~~ *Collaborating with the Kentucky Department of Education to assist*~~Assisting~~ districts *with students functioning at*~~located in areas with~~ low levels of reading skills to assess and address identified literacy needs;
- (e)~~(d)~~ Providing professional development and coaching for *early childhood educators and* classroom teachers, including adult education teachers, implementing selected reliable, replicable research-based reading *programs*. *The professional development shall utilize technology when appropriate*~~models~~;
- (f)~~(e)~~ Developing and implementing a comprehensive research agenda evaluating the early reading models implemented in Kentucky under KRS 158.792;
- (g)~~(f)~~ *Maintaining*~~Establishing~~ a demonstration and training site for early literacy located at each of the public universities; and
- (h)~~(g)~~ Evaluating the reading and literacy components of the model adult education programs funded under the adult education and literacy initiative fund created under KRS 164.041.
- (2) *The center shall review national research and disseminate appropriate research abstracts, when appropriate, as well as conduct ongoing research of reading programs throughout the state. Research activities undertaken by the center shall consist of descriptive as well as empirical studies.*

- (a) *The center may contract for research studies to be conducted on its behalf.*
- (b) *The research agenda should, at a minimum, consider the impact of various reading and intervention programs:*
1. *In eliminating academic achievement gaps among students with differing characteristics, including subpopulations of students with disabilities, students with low socioeconomic status, students from racial minority groups, students with limited English proficiency, and students of different gender;*
 2. *In schools with differing characteristics, such as urban versus rural schools, poverty versus nonpoverty schools, schools with strong library media center programs versus schools with weak library media center programs and schools in different geographic regions of the state;*
 3. *In terms of their costs and effectiveness; and*
 4. *In maintaining positive student progress over a sustained period of time.*
- (3) The center shall submit an annual report ~~of~~ its activities to the *Kentucky Department of Education*, the Governor, and the Legislative Research Commission no later than September 1 of each year.
- ~~(4)~~~~(3)~~ With ~~the~~ advice *from* ~~of the Department of Adult Education and Literacy in the Cabinet for Workforce Development and~~ the Department of Education, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Collaborative Center for Literacy Development at a public institution of postsecondary education. The Council on Postsecondary Education shall approve the location. *The center, in conjunction with the council, shall establish goals and performance objectives related to the functions described in this section* ~~and monitor the progress of the center~~.

Section 6. KRS 154A.130 is amended to read as follows:

- (1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation

to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

- (2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.
- (3) ~~Beginning in fiscal year 1999-2000, and~~ Each fiscal year ~~thereafter~~, three million dollars (\$3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
- (a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars (\$1,200,000) ~~in fiscal year 1999-2000 and each fiscal year thereafter~~; and
 - (b) To the *reading diagnostic and intervention* ~~early reading incentive~~ fund, one million eight hundred thousand dollars (\$1,800,000) ~~in fiscal year 1999-2000 and each fiscal year thereafter~~.
- (4) After the allocation of three million dollars (\$3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
- (a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:
 1. ~~Seven million dollars (\$7,000,000) in fiscal year 1999-2000;~~
 2. ~~Fifteen percent (15%) in fiscal year 2000-2001;~~
 3. ~~Twenty five percent (25%) in fiscal year 2001-2002;~~
 4. ~~Thirty two percent (32%) in fiscal year 2002-2003;~~
 5. ~~Forty percent (40%) in fiscal year 2003-2004; and~~
 - 2~~6~~. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and
 - (b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:
 1. ~~Fourteen million dollars (\$14,000,000) in fiscal year 1998-1999;~~
 2. ~~Fifteen million dollars (\$15,000,000) in fiscal year 1999-2000;~~
 3. ~~Thirty two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;~~
 4. ~~Forty percent (40%) in fiscal year 2003-2004;~~
 - 2~~5~~. Forty-five percent (45%) in fiscal year 2004-2005; and

~~3[6]~~. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.

- (5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.
- (6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:
 - (a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;
 - (b) A statement identifying the auditing firm;
 - (c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and
 - (d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 7. KRS 200.703 is amended to read as follows:

- (1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:
 - (a) Implementation of public health initiatives identified by the General Assembly;
 - (b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;
 - (c) Voluntary immunization for children not covered by public or private health insurance;

- (d) Availability of high-quality, affordable early child-care and education options; and
 - (e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.
- (2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.
- (3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services; the Cabinet for Families and Children; the Education, Arts, and Humanities Cabinet; the Finance and Administration Cabinet; or other appropriate administrative agency.
- (4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.
- (5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
- (a) Coordinate and improve early childhood development services, outcomes, and policies;
 - (b) Establish procedures that relate to its governance;
 - (c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;
 - (d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;
 - (e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and
 - (f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:
 - 1. The financial management of funds paid to grantees;
 - 2. The maintenance of records; and
 - 3. An independent audit of the use of grant funds.
- (6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

- (7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.
- (8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:
 - (a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or
 - (b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority, or any programs that had been funded by the authority with expenditures from the early childhood development fund.
- (9)
 - (a) The authority shall establish a Healthy Babies Work Group, consisting of representatives from the Cabinet for Families and Children; the Cabinet for Health Services; public schools; local libraries; the Kentucky March of Dimes; family resource centers; agencies that provide benefits under the Special Supplementation Food Program for Women, Infants, and Children; the Folic Acid Awareness Campaign; physicians; secondary health education and consumer sciences teachers; the Spina Bifida Association of Kentucky; and other persons as appropriate. Representatives shall reflect the geographic, racial, and gender diversity of the Commonwealth.
 - (b) The Healthy Babies Work Group shall collaborate on development and implementation of a public awareness campaign to inform the citizens of the Commonwealth about the benefits of good nutrition, folic acid, smoking cessation, and healthy lifestyle choices that lead to healthy babies, the effects of alcohol and substance abuse on fetal and early childhood development, and the need for a vision examination of children at age three (3). The work group shall work with local health departments for the vision examination outreach program.
- (10) The authority shall work with local entities, including, but not limited to, health departments and service providers, to establish to the extent of available funding a vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination. ***The authority shall provide that primary students, regardless of age, who are having difficulty with reading may be referred and receive a second vision examination as described in KRS 156.160 at no cost to the parent.***
- (11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

Section 8. Whereas it is critical that the Department of Education, the Kentucky Board of Education, the Collaborative Center for Literacy Development, and the Reading Diagnostic and Intervention Early Grant Steering Committee arrive at decisions regarding revisions to administrative regulations and the distribution of grant applications to local school districts, and that technical assistance be provided to school districts in a timely manner before the start of the 2005-2006 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 March 18, 2005.