

Table of Contents
2021 First Extraordinary Session

Volume I
Chapters 1 - 5

CHAPTER 1 (HJR 1, Rudy and Os borne)	1
CHAPTER 2 (SB 3, Stivers)	5
CHAPTER 3 (SB 5, Thayer and others)	6
CHAPTER 4 (SB 1, Wise)	7
CHAPTER 5 (SB 2, Stivers)	11

CHAPTER 1**(HJR 1)**

A JOINT RESOLUTION extending emergency executive actions and declaring an emergency.

WHEREAS, emergency executive orders, administrative regulations, and other directives have been issued by the Governor and executive branch agencies in response to the SARS-COV-2 virus; and

WHEREAS, KRS 39A.090 limits certain emergency executive actions, administrative regulations, and directives issued by the Governor to 30 days unless an extension is approved by the General Assembly, and some of the SARS-COV-2 emergency executive actions, administrative regulations, and other directives set out herein were extended by 2021 RS HJR 77 to 90 days after March 30, 2021; and

WHEREAS, a number of SARS-COV-2 emergency executive orders, administrative regulations, or directives need to be extended past the expiration date set out in 2021 RS HJR 77 and continued until January 15, 2022, in order to protect the citizens of Kentucky;

NOW, THEREFORE,

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

➔Section 1. All SARS-COV-2-related executive orders issued by the Governor and all executive actions and administrative orders, administrative regulations, or other administrative actions not specifically extended by this Resolution are of no further force or effect as of the effective date of this Resolution.

➔Section 2. The General Assembly hereby approves, extends, and in some cases modifies as stated, the following executive orders issued in response to the SARS-COV-2 virus, and declares that the same shall be in effect until and expire on January 15, 2022:

- (1) 2020 Executive Order 2020-215, which declared a state of emergency, to the extent necessary to:
 - (a) Secure current or future federal funding, including reimbursements, related to the SARS-COV-2 virus;
 - (b) Preserve the protections and status afforded by 2021 RS SB 5, 2021 Ky. Acts ch. 205; and
 - (c) Extend 2020 RS SB 150, 2020 Ky. Acts ch. 73, until January 15, 2022, to the extent the provisions are not superseded by statute or administrative regulation;
- (2) Notwithstanding any statutory provisions to the contrary, 2021 Executive Order 2021-666, related to the dispensing of pharmaceuticals;
- (3) Notwithstanding any statutory provisions to the contrary, 2021 Executive Order 2021-665, related to price gouging;
- (4) 2020 Executive Order 2020-220, related to health insurers waiving costs for COVID-19 screening, testing, and immunizations;
- (5) 2020 Executive Order 2020-265, related to retired first responders returning to work during an emergency;
- (6) 2020 Executive Order 2020-266, related to retired state employees returning to work during an emergency, except the provisions in paragraphs 8 and 9;
- (7) 2020 Executive Order 2020-277, related to temporary disability from occupational exposure to COVID-19, except the provisions in paragraph 3;
- (8) 2020 Executive Order 2020-243 to the extent that the order:
 - (a) Encourages social distancing among citizens; and
 - (b) Requires state agencies to:
 1. Encourage social distancing;
 2. Provide and conduct services by mail, Internet, phone, and/or video conferencing;
 3. Extend licenses, credentials, or certificates that require in-person appearances or education for renewal;
 4. Permit education and continuing education to be satisfied online;
 5. Extend deadlines for statutory or regulatory reporting; and

6. Extend deadlines for payments of fees, taxes, and assessments, and waive late payment penalties incurred;
- (9) Secretary of the Governor's Executive Cabinet Order, dated March 31, 2020, related to the suspension of statutes and administrative regulations that require advanced practice registered nurses to have collaborative agreements with physicians in order to prescribe legend drugs and controlled substances; and
- (10) Secretary of the Governor's Executive Cabinet Order, dated April 24, 2020, related to the "practice of pharmacy" shall include initiating, ordering, and administering SARS-COV-2 testing.

➔Section 3. The General Assembly hereby approves, ratifies, modifies, and extends the following executive actions and administrative regulations issued by a cabinet, agency, or department in response to the SARS-COV-2 virus until January 15, 2022:

- (1) Labor Cabinet Administrative Order 2020-001, dated April 10, 2020, related to the allowing of digital signatures;
- (2) Cabinet for Health and Family Services Order, dated July 8, 2021, related to not requiring a clinician's order to administer, bill, or insure SARS-COV-2 testing and prohibiting cost-sharing;
- (3) Education and Workforce Development Administrative Order 2020-02 paragraphs 5, 7, 9, and 10 only, related to unemployment insurance;
- (4) Education and Workforce Development Administrative Order 2020-07, dated July 30, 2020, related to unemployment insurance clarification per federal law;
- (5) Labor Cabinet Administrative Order 2021-02, dated May 24, 2021, related to permitting auto industry employers to file electronically for unemployment insurance benefits for employees with recall rights;
- (6) Personnel Cabinet Memorandum No. 21-14, dated August 5, 2021, except that the annual leave shall be leave only and shall not be credited for compensation;
- (7) Cabinet for Health and Family Services Directive, dated August 18, 2021, related to out-of-state medical providers providing COVID-19 services;
- (8) Cabinet for Health and Family Services Directive, dated August 8, 2021, related to SARS-COV-2 testing waivers;
- (9) The Department of Financial Institutions Guidance issued June 5, 2021, and any extension, but not including Section 2 of the Guidance;
- (10) The Department of Financial Institutions Guidance, undated, related to waiving the requirement for physical signatures on U4 forms and updates on annual filings;
- (11) 201 KAR 8:505E, Administration of COVID-19 immunizations;
- (12) Energy and Environment Cabinet Emergency Bulletin to all solid waste management facilities from the secretary of the Energy and Environment Cabinet, dated March 26, 2020, related to the response to the request of the National Waste and Recycling Association dated March 24, 2020, asking that the Department for Environmental Protection consider granting relief or flexibility to certain administrative regulations concerning the handling, storage, and disposal of solid waste and recycling materials;
- (13) Energy and Environment Cabinet Memorandum to Department of Environmental Protection staff from the secretary of the Energy and Environment Cabinet, dated March 26, 2020, related to the SARS-COV-2 state of emergency, method 9 visual opacity measurements, and asbestos certification/accreditation renewals;
- (14) Energy and Environment Cabinet Memorandum to the staff of the Department of Environmental Protection, for dissemination, from the secretary of the Energy and Environment Cabinet, dated March 26, 2020, related to SARS-COV-2 state of emergency, waste water operators certification;
- (15) Energy and Environment Cabinet Memorandum to Department of Natural Resources staff, for dissemination, from the secretary of the Energy and Environment Cabinet, dated May 4, 2020, related to the SARS-COV-2 state of emergency extension of miner training deadlines;
- (16) Energy and Environment Cabinet and Public Service Commission Memorandum, dated July 31, 2020, related to the SARS-COV-2 state of emergency, requests for temporary flexibility relating to the specific instruction program conducted by the Kentucky Public Service Commission for water district commissioners under KRS 74.020(8)(b);

- (17) Energy and Environment Cabinet Memorandum to Department of Environmental Protection staff, for dissemination, from the secretary of the Energy and Environment Cabinet, dated August 6, 2020, related to the SARS-COV-2 state of emergency, requests for temporary regulatory flexibility relating to the consideration of the use of enforcement discretion for regulated entities for issues of noncompliance caused by SARS-COV-2;
- (18) Energy and Environment Cabinet Memorandum to the Department for Natural Resources staff, for dissemination, from the secretary of the Energy and Environment Cabinet, dated January 25, 2021, related to the SARS-COV-2 state of emergency, temporary master logger designations and master logger designations;
- (19) Public Protection Cabinet Orders, dated March 31, 2020, and April 7, 2020, related to licensure and the temporary suspension of the building code for hospital overflow areas;
- (20) Kentucky Economic Development Finance Authority Resolution No. 2020-0730, dated July 30, 2020, related to the deferral of job and wage requirements per financial incentive programs;
- (21) Department of Insurance Order, dated March 18, 2020, related to telehealth remote communications and the prior relationship requirement;
- (22) Cabinet for Health and Family Services, Office of the Secretary Order, dated April 6, 2020, related to waiver CHFS approval for a waiver if state law requirements are more stringent than HHS 1135 blanket waivers; and
- (23) Labor Cabinet Administrative Order 2020-04, dated December 15, 2020, related to unemployment insurance reserve ratios for employers with 100 or less employees, but not including section 3 of the administrative order.

➔Section 4. The General Assembly hereby approves, ratifies, and extends the following administrative actions issued by boards, commissions, corporations, and authorities in response to the SARS-COV-2 virus until January 15, 2022:

- (1) Board of Veterinary Examiners Order, dated April 16, 2020, to the extent that the order fulfills the objectives of subsection (8) of Section 2 of this Act;
- (2) Kentucky Applied Behavior Analysis Licensing Board Order, dated March 23, 2020, related to telehealth services;
- (3) Kentucky Board of Alcohol and Drug Counselors Order, dated April 2, 2020, related to licensure;
- (4) Kentucky Board of Licensed Diabetes Educators Order, dated July 21, 2020, related to social distancing and telework;
- (5) Kentucky Board of Licensure for Long-Term Care Administrators Orders, dated May 29, 2020, and March 26, 2021, related to continuing education and licensure;
- (6) Kentucky Board of Licensed Professional Counselors Order, dated April 2, 2020, related to distance counseling;
- (7) Kentucky Board of Licensure for Marriage and Family Therapists Order, dated March 31, 2020, related to telework;
- (8) Kentucky Board of Licensure for Occupational Therapy Order, dated March 24, 2020, related to telehealth;
- (9) Kentucky Board of Licensure for Private Investigators Order, dated June 10, 2020, related to licensure;
- (10) Kentucky Board of Examiners of Psychology Orders, dated March 25, 2020, June 8, 2020, and August 3, 2020, related to licensure, continuing education, and telehealth;
- (11) Kentucky Board of Speech-Language Pathology and Audiology Orders, dated March 25, 2020, and June 25, 2020, related to licensure and telehealth;
- (12) Kentucky Board of Interpreters for Deaf and Hard of Hearing Order, dated April 27, 2020, related to fees, licensure, and continuing education;
- (13) Kentucky Licensing Board for Specialists in Hearing Instruments Order, dated May 21, 2021, related to licensure and continuing education;
- (14) Kentucky Board of Barbering Order, to the extent that the order fulfills the objectives of subsection (8) of Section 2 of this Act;
- (15) Kentucky Board of Licensure for Massage Therapy Order, dated May 11, 2020, related to licensure;

- (16) Board of Pharmacy Order, dated April 24, 2020, related to the suspension of administrative regulations which relate to in-person work;
- (17) Bluegrass State Skills Corporation May 21, 2020, exemption to Guidelines 2020-2021;
- (18) Board of Dentistry Order, dated April 17, 2020, to the extent that the order fulfills the objectives of subsection (8) of Section 2 of this Act;
- (19) Board of Nursing Emergency Memoranda, dated March 5, 2021, August 26, 2020, April 17, 2020, and March 27, 2020, related to clinical education, APRN licensure, and temporary licensure;
- (20) Board of Social Work Memorandum, dated March 30, 2020, related to licensure and out-of-state practitioners;
- (21) Board of Licensure for Pastoral Counselors action, dated April 24, 2020, related to licensure;
- (22) Board of Licensure for Dietitians and Nutritionists actions, dated March 30, 2020, March 25, 2020, and October 30, 2019, related to licensure, telehealth, and continuing education;
- (23) Board of Durable Medical Equipment Suppliers action, dated May 19, 2020, related to suspension of license renewals;
- (24) Board of Chiropractic Examiners actions, dated April 24, 2020, and May 15, 2020, related to SARS-COV-2 mitigation and continuing education;
- (25) Kentucky Board of Podiatry actions, dated April 13, 2021, and July 28, 2020, related to a fee waiver;
- (26) Board of Prosthetics, Orthotics, and Pedorthics action, dated May 26, 2020, related to telehealth and continuing education;
- (27) Board of Respiratory Care undated action premised on the August 18, 2021, Cabinet for Health and Family Services directive, related to licensure;
- (28) Board of Licensure for Professional Art Therapists action, dated May 13, 2020, related to licensure;
- (29) Board of Emergency Medical Services:
 - (a) 202 KAR 7:201, First responders;
 - (b) 202 KAR 7:301, EMT;
 - (c) 202 KAR 7:330, Requirements for examination, certification, and recertification of the advanced emergency medical technician;
 - (d) 202 KAR 7:401, Paramedics;
 - (e) 202 KAR 7:501, Ambulance agency licensure;
 - (f) 202 KAR 7:510, Air ambulance services;
 - (g) 202 KAR 7:540, EMS data collection, management, and compliance;
 - (h) 202 KAR 7:545, License classifications;
 - (i) 202 KAR 7:550, Required equipment and vehicle standards;
 - (j) 202 KAR 7:555, Ground agencies;
 - (k) 202 KAR 7:560, Ground vehicle staff;
 - (l) 202 KAR 7:601, Training, education, and continuing education;
 - (m) 202 KAR 7:701, Scope of practice matters; and
 - (n) 202 KAR 7:801, Medical directors;
- (30) Kentucky Real Estate Commission action, dated March 19, 2020, related to licensure;
- (31) Kentucky Board of Home Inspectors action, dated August 18, 2020, related to licensure; and
- (32) Kentucky Board of Auctioneers action, dated April 8, 2020, related to distance learning.

➔Section 5. All executive orders, cabinet and agency orders, guidances, memoranda, directives, or actions identified herein shall be forwarded to the Secretary of State for posting prominently on the secretary's Web site until the conclusion of the SARS-COV-2 emergency.

➔Section 6. Upon the expiration of an executive order, other directive, or administrative regulation declaring an emergency or other implementation of powers under KRS Chapter 39A, the Governor shall not declare a new emergency or continue to implement any of the powers under KRS Chapter 39A based upon the same or substantially similar facts and circumstances as the original declaration or implementation without the prior approval of the General Assembly.

➔Section 7. The state of emergency declared by the Governor in response to the flash flooding in Nicholas County, and in particular the City of Carlisle, on August 3, 2021, by Executive Order No. 2021-565 dated August 3, 2021, is extended an additional 30 days to ensure any necessary emergency services that may be required are provided to residents and businesses of Nicholas County and the City of Carlisle, as the Commonwealth's request for federal assistance submitted to the President of the United States through the Federal Emergency Management Agency on August 19, 2021, remains under review.

➔Section 8. If any of the executive or administrative actions identified herein becomes necessary after January 15, 2022, the Governor, responsible cabinet, agency, or department shall promulgate an emergency administrative regulation according to KRS Chapter 13A. If any suspension of statutes is included in the executive or administrative actions identified herein, or in any executive or administrative action contemplated after January 15, 2021, prior approval of the Attorney General shall be obtained as required by KRS 39A.180.

➔Section 9. Nothing in this Resolution shall be interpreted to allow state agencies to remain closed for regular in-person business.

➔Section 10. It is not the intention of the General Assembly that this Resolution should impair or delay the ability of the Commonwealth to receive any federal stimulus or pandemic-related funds.

➔Section 11. Whereas, the General Assembly desires to ensure that the citizens of the Commonwealth are protected during the SARS-COV-2 pandemic, an emergency is declared to exist, and this Resolution takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor September 7, 2021.

CHAPTER 2

(SB 3)

AN ACT relating to the COVID-19 pandemic, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. (1) There is hereby appropriated federal funds from the Coronavirus State Fiscal Recovery Fund of the American Rescue Plan Act in the amount of \$69,268,300 in fiscal year 2021-2022 to the General Administration and Program Support budget unit within the Health and Family Services Cabinet to address the continuing COVID-19 pandemic and the resulting pressures that have been experienced in the healthcare, long-term care, and school systems. The use of funds shall be prioritized in the following areas, but may be used in other critical health care need areas related to the COVID-19 as they arise:

(a) Testing for COVID-19, including assisting hospitals, licensed health care providers, jails, prisons, homeless shelters, local health departments and other entities in acquiring and distributing sufficient COVID-19 tests;

(b) Assisting providers of established monoclonal antibody treatment and assisting additional providers in establishing monoclonal treatment centers, with the goal of having at least one qualified treatment center available in each of the 15 area development districts; and

(c) Providing for "Test and Stay" COVID-19 testing at schools to ensure students are able to continue attending school in person instead of entering quarantine when those students have no symptoms and continue to have a negative COVID-19 test.

(2) (a) If any other sources of federal COVID-19 pandemic funding are available for any of the uses listed under subsection (1) of this section, and those uses are acceptable under federal requirements and guidelines, those sources should be used prior to the funding appropriated under subsection (1) of this section. Other sources may include but are not limited to currently existing funding for COVID-19 screening and testing programs to ensure in-person learning in schools, testing, or the purchase of tests, and remaining Coronavirus Relief Funds.

(b) Funds shall be used in accordance with American Rescue Plan Act and United States Treasury requirements and guidance.

(c) Funds shall not be used for any increase in administration fees or salaries for administrative personnel.

(d) Funds shall not be used to supplant funding from other state or federal programs.

➔Section 2. 2021 Ky. Acts ch. 196, sec. 6 is amended to read as follows:

"There is hereby appropriated Federal Funds from the Coronavirus State Fiscal Recovery Fund of the American Rescue Plan Act in the amount of ~~\$575,000,000~~ **\$505,731,700** in fiscal year 2021-2022 to the Employment Services budget unit for payment of interest and principal, in that order, for advances under Title XII of the Social Security Act during calendar year 2021."

➔Section 3. The Cabinet for Health and Family Services shall submit to the Legislative Research Commission and the Interim Joint Committee on Health, Welfare, & Family Services by December 15, 2021, a report of all expenditures used, including a breakdown of expenditures that includes but is not limited to the following:

(1) The number of COVID-19 tests purchased and provided by each entity assisted;

(2) The number of monoclonal antibody treatment providers and centers and treatments purchased and provided by each treatment provider and center; and

(3) The number of "Test and Stay" COVID-19 testing purchased and provided to schools and the number of student quarantine days by school district.

➔Section 4. Whereas the healthcare system is severely stressed by the COVID-19 pandemic and K-12 schools need additional COVID-19 testing supplies to avoid extensive quarantines and to ensure in-person school participation, 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.

Signed by Governor September 9, 2021.

CHAPTER 3

(SB 5)

AN ACT funding programs and projects for economic development projects exceeding a minimum investment of \$2,000,000,000, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. There is hereby appropriated from the Budget Reserve Trust Fund (KRS 48.705) to the Economic Development budget unit General Fund moneys in the amount of \$350,000,000 in fiscal year 2021-2022 for funding of Kentucky Economic Development Finance Authority forgivable loans ("KEDFA loans") for economic development projects with a minimum investment of \$2,000,000,000. Such forgivable loans may be offered as the net present value of and as a substitute for economic incentives offered under the Kentucky Business Investment program (KRS 154.32), the Kentucky Enterprise Initiative Act (KRS 154.31), and the Economic Development Fund program (KRS 154.12-100). Therefore, if such a loan is offered and awarded, the state will collect the sales and use taxes, Kentucky income tax, limited liability entity tax, and payroll withholding tax eligible for a wage assessment that would otherwise be exempted under those incentive programs. The Cabinet for Economic Development shall determine the terms and conditions of the KEDFA loans, monitor the performance of the economic development projects, and secure reasonable collateral. Annual status of any KEDFA loans awarded shall be reported to the General Assembly by November 1 of each year so long as the KEDFA loans are in effect.

➔Section 2. The Restrictive Covenants associated with property purchased in 2002 consisting of 47 tracts of contiguous real property in Hardin County acquired to be used solely in connection with economic development projects require the General Assembly, the Kentucky Economic Development Finance Authority ("Authority"), and the Kentucky Cabinet for Economic Development ("Cabinet") to authorize the use of property for major manufacturing, processing, and assembling facilities and provide written consent if the property is conveyed to any party other than the Elizabethtown-Hardin County Industrial Foundation ("Foundation"). For eligible projects

meeting these qualifications, the General Assembly authorizes the Authority to approve the use of the property and provides consent to transfer the property to another entity.

➔Section 3. There is hereby appropriated from the Budget Reserve Trust Fund (KRS 48.705) to the Economic Development budget unit General Fund moneys in the amount of \$10,639,600 in fiscal year 2021-2022 to pay off the loan made pursuant to a Loan Agreement dated August 29, 2002, by and between the Authority, Hardin County, and the Foundation associated with the property outlined in Section 2 of this Act to be used solely in connection with economic development projects.

➔Section 4. There is hereby appropriated from the Budget Reserve Trust Fund (KRS 48.705) to the Economic Development budget unit General Fund moneys in the amount of \$20,000,000 in fiscal year 2021-2022 to make training grants under the Bluegrass State Skills Corporation programs to support economic development projects with a minimum investment of \$2,000,000,000. The Cabinet for Economic Development shall determine the terms and conditions of the Bluegrass State Skills Corporation training grants and monitor the performance of the economic development projects in utilizing such grants consistent with the Bluegrass State Skills Corporation training program.

➔Section 5. There is hereby appropriated from the Budget Reserve Trust Fund (KRS 48.705) to the Kentucky Community and Technical College System budget unit General Fund moneys in the amount of \$5,000,000 in fiscal year 2021-2022 to make training grants under the KCTCS-TRAINS program to support economic development projects with a minimum investment of \$2,000,000,000. The Kentucky Community and Technical College System shall determine the terms and conditions of the KCTCS-TRAINS training grants and monitor the performance of the economic development projects in utilizing such grants consistent with the KCTCS-TRAINS training program. Notwithstanding KRS 164.092(1)(e), this appropriation is excluded from the formula base amount.

➔Section 6. There is hereby appropriated from the Budget Reserve Trust Fund (KRS 48.705) to the Kentucky Community and Technical College System budget unit General Fund moneys in the amount of \$25,000,000 in fiscal year 2021-2022 for a capital project to construct an on-site training center located on the property outlined in Section 2 of this Act.

➔Section 7. Notwithstanding KRS 45.229, the General Fund apportionments outlined in Sections 1, 3, 4, 5, and 6 in this Act shall not lapse and shall carry forward.

➔Section 8. Whereas economic development and job creation are vital to the health, well-being, and economic prosperity of the citizens of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor September 9, 2021.

CHAPTER 4

(SB 1)

AN ACT relating to the delivery of education and care for children and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds that 902 KAR 2:213E, Childcare Standards for Covering the Face in Response to Declared National or State Public Health Emergency, was found deficient but remained effective notwithstanding the finding of deficiency pursuant to KRS 13A.330, on or after March 30, 2021, and before the effective date of this Act, as evidenced by the records of the Legislative Research Commission.*
- (2) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative regulation referenced in subsection (1) of this section shall be null, void, and unenforceable as of the effective date of this Act.*
- (3) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative body shall be prohibited from promulgating an administrative regulation that is identical to, or substantially the same as, the administrative regulation referenced in subsection (1) of this section for a period beginning on the effective date of this Act and concluding on June 1, 2023.*

- (4) *The administrative regulation referenced in subsection (1) of this section shall be available to the public, in the office of the Legislative Research Commission's regulations compiler.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds that 702 KAR 1:195E, Face Coverings in School Facilities, was found deficient but remained effective notwithstanding the finding of deficiency pursuant to KRS 13A.330, on or after August 17, 2021, and before the effective date of this Act, as evidenced by records of the Legislative Research Commission.*
- (2) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative regulation referenced in subsection (1) of this section shall be null, void, and unenforceable five (5) working days from the effective date of this Act.*
- (3) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative body shall be prohibited from promulgating an administrative regulation that is identical to, or substantially the same as, the administrative regulation referenced in subsection (1) of this section for a period beginning on the effective date of this Act and concluding on June 1, 2023.*
- (4) *The administrative regulation referenced in subsection (1) of this section shall be available to the public, in the office of the Legislative Research Commission's regulations compiler.*

➔Section 3. Recognizing the significant and imminent safety concerns and challenges to operating schools during the COVID-19 pandemic, the General Assembly requires each school district to have a COVID-19 school operations plan in place as of the effective date of this Act. Each school district shall submit its COVID-19 school operations plan, and any subsequent versions, to the Kentucky Department of Education (KDE) for informational purposes and shall make the plan available on the district's website.

➔Section 4. (1) Within 14 days of the effective date of this Act, the Department for Public Health shall develop a COVID-19 "test to stay" model school plan that may be implemented by school districts, in whole or in part, to minimize the impact of quarantining non-symptomatic students and staff.

(2) The model plan shall include, as an alternative to quarantining, an on-site testing option that allows non-symptomatic students with school-related COVID-19 exposures to remain at school by testing negative for COVID-19 for a certain number of days following exposure. The model plan shall provide guidance for contact tracing and quarantining based on whether or not exposed individuals were masked, non-masked, or fully vaccinated.

(3) A school district's local health department shall provide assistance in implementing a school district's test-to-stay plan, or any other local school board-approved COVID-19 plan for masking, contact tracing, and quarantining, including the location and procurement of resources. The Department for Public Health shall provide support to the local health departments in assisting the school districts.

➔Section 5. (1) Notwithstanding any other statute or administrative regulation to the contrary, a school district may temporarily assign students at the school, grade, classroom, or student group level to remote instruction due to significant absences of students or staff related to the COVID-19 pandemic until December 31, 2021.

(2) With prior authorization from the local board of education, the decision to temporarily assign students to remote instruction shall be at the discretion of the superintendent. The temporary assignment to remote instruction shall be no longer than is necessary to alleviate student and staff absences due to COVID-19.

(3) Remote instruction may be provided to a particular school, grade, classroom, or group of students up to 20 days under this section. No school district shall utilize remote instruction under this section for more than 20 days. A school district shall not temporarily assign every student in the district to remote instruction under this section, unless all students in the school district are located in a single school facility.

(4) Students temporarily assigned to remote instruction shall receive at least the minimum daily instruction required pursuant to KRS 158.060, which shall include the content standards as provided in the Kentucky Academic Standards.

(5) Remote instruction provided under this section shall not be counted against student attendance days authorized under a school district's approved nontraditional instruction plan.

➔Section 6. (1) Notwithstanding any statute or administrative regulation to the contrary, for school year 2021-2022, school districts may, when submitting the Superintendent's Annual Attendance Report, substitute attendance data for school year 2018-2019 or for school year 2019-2020 for attendance data for school year 2021-2022. The selected data shall be utilized to calculate the average daily attendance that will be used in calculating

Support Education Excellence in Kentucky (SEEK) funds and any other state funding based in whole or in part on average daily attendance for the district.

(2) Current year data shall be used for property assessments per KRS 160.470(5), district tax rates levied, equivalent tax rates based on tax levies, exceptional and limited English proficiency student counts, and state equalization.

(3) For school year 2021-2022, each school district shall continue to enforce compulsory attendance requirements set forth in KRS Chapter 159 and report student attendance in the statewide student information system as required by state statute and administrative regulation.

(4) It is the intent of the General Assembly to enact legislation in the 2022 General Session to address the adjustment of SEEK calculations related to attendance growth over prior school years.

➔Section 7. When a school district utilizes a student attendance day under an approved nontraditional instruction plan due to COVID-19, or utilizes remote instruction under Section 5 of this Act, all certified staff and any classified staff designated by the district shall be required to perform work duties on-site during the student attendance day, except for employees quarantined due to COVID-19 who the district determines can fulfill their job duties remotely.

➔Section 8. (1) Notwithstanding the requirements of KRS 161.100, 16 KAR 2:030, and any other statute or administrative regulation to the contrary, for the 2021-2022 school year, a local school district may employ individuals to serve as short- or long-term substitute teachers under the requirements of this subsection. An individual must comply with the background checks required under subsection (5) of this section and have:

(a) At least 64 hours of college credit; or

(b) A high school diploma or equivalent and 4 years of occupational experience related to education, childcare, or the subject area to be taught.

An individual hired under this subsection must apply for the one-year emergency substitute certification from the Education Professional Standards Board, and a school district may employ the individual prior to the receipt of the certificate if all other requirements of this subsection are met.

(2) For the 2021-2022 school year, a local school district may fill certified positions notwithstanding the vacancy process requirements contained in KRS 160.380(2)(b), (c), and (d).

(3) Notwithstanding any other statute or administrative regulation to the contrary, for the 2021-2022 school year, classified staff employed by the school district as of the effective date of this Act may perform classroom instructional activities without direct supervision by certified staff.

(4) Notwithstanding the requirement that instruction be provided by a certified teacher in KRS 158.033 and any other statute or administrative regulation to the contrary, for the 2021-2022 school year, home or hospital instruction may be provided by classified staff employed by the school district as of the effective date of this Act.

(5) For the 2021-2022 school year, compliance background checks under KRS 160.380 are required, except, notwithstanding KRS 160.380(7)(a), a superintendent may employ all individuals on probationary status upon receiving a preliminary background check conducted by the Administrative Office of the Courts, provided the background checks required under KRS 160.380 have been requested by the date the probationary employment begins.

(6) The Department of Kentucky State Police and the Cabinet for Health and Family Services shall prioritize the completion of school district employee application background checks under KRS 160.380 for the 2021-2022 school year.

(7) Nothing in this section shall be interpreted to waive any requirements of the Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 et seq. or any other federal act.

➔Section 9. (1) Notwithstanding any provision of KRS 161.605 or 161.612 to the contrary, for the time period occurring on or after the effective date of this Act and until January 15, 2022, the following shall apply to retirees who retired from the Teachers' Retirement System on or before August 1, 2021, and who subsequently return to employment for a local board of education in a full-time or part-time teaching position, or in a position providing substitute teaching services:

(a) The separation of service required shall be a bona fide separation of at least one month for retirees returning to work in a full-time, part-time, or substitute teaching position with a local board of education. The system

shall not be able to extend the break in employment as provided by this paragraph unless an extension is needed due to a conflict with federal law as described in subsection (4) of this section;

(b) The critical shortage program limitations on the number of retired teachers reemployed under the program by a local school district as provided by KRS 161.605(8)(a) shall be increased to a maximum number of 10 percent of the total active members employed by the local school district on a full-time basis as defined under KRS 161.220(21); and

(c) Other than the temporary adjustments provided in this subsection, all other provisions of KRS 161.220 to 161.716 and 161.990 shall apply.

(2) The provisions of subsection (1) of this section shall expire on January 15, 2022. Upon expiration of these temporary provisions, any future reemployment or ongoing reemployment of retirees subject to the provisions of subsection (1) of this section shall, for such future or ongoing reemployment occurring after January 15, 2022, be subject to KRS 161.605, including the existing limitations on the critical shortage program, except that a retiree who is reemployed according to the provisions of subsection (1) of this section shall not be required to observe any additional separation of service beyond the one month specified by subsection (1)(a) of this section if he or she remains employed or is reemployed on or after January 15, 2022.

(3) Additional costs incurred to school districts under this section for the hiring of critical shortage teachers to meet the educational challenges of the COVID-19 pandemic are deemed a qualified expense by the General Assembly for purposes of utilizing federal pandemic funds and shall be authorized for use by school districts for this purpose unless in conflict with federal law.

(4) Any provision of subsection (1) and (2) of this section in conflict with federal law as determined by the system shall be void. The school districts shall be notified of any provision in conflict that is voided.

➔Section 10. (1) Notwithstanding any provision of KRS 61.637 or 78.5540 to the contrary, for the time period occurring on or after the effective date of this Act and until January 15, 2022, the following shall apply to retirees who retired from the systems on or before August 1, 2021, and who subsequently return to employment for a local board of education in a full-time or part-time classified position, or in a position providing substitute classified services:

(a) The separation of service required shall be a bona fide separation of at least one month for retirees returning to work in a full-time, substitute, or part-time classified position with a local board of education. The systems shall not be able to extend the break in employment as provided by this paragraph unless an extension is needed due to a conflict with federal law as described in subsection (3) of this section; and

(b) Other than the temporary adjustments provided in this subsection, all other provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 shall apply.

(2) The provisions of subsection (1) of this section shall expire on January 15, 2022. Upon expiration of these temporary provisions, any future reemployment or ongoing reemployment of retirees hired under the provisions of subsection (1) of this section shall, for such future or ongoing reemployment occurring after January 15, 2022, be subject to KRS 61.637 or 78.5540, as applicable, except that a retiree who is reemployed according to the provisions of subsection (1) of this section shall not be required to observe any additional separation of service beyond the one month specified by subsection (1)(a) of this section if he or she remains employed or is reemployed on or after January 15, 2022.

(3) Any provision of this section in conflict with federal law as determined by the systems shall be void. The school districts shall be notified of any provision in conflict that is voided.

➔Section 11. (1) For the 2021-2022 school year, a school district may revise its school calendar under the requirements of this section.

(2) For purposes of this section, notwithstanding the requirement in KRS 158.070 that the student instructional year include 170 student attendance days and any other statute or administrative regulation to the contrary, students shall receive a minimum of 1,062 instructional hours, less any waiver of instructional time provided in accordance with KRS 158.070(3)(f) and 702 KAR 7:140.

(3) A school district may reach 1,062 instructional hours by adding time to the day. A day shall not exceed seven hours of instructional time, unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar. A school district shall not schedule any instructional days on Saturdays. A school district may schedule graduation ceremonies before the final instructional day.

(4) Notwithstanding any other statute or administrative regulation to the contrary, school district certified and classified personnel shall complete all contract days by participating in instructional activities or professional development or by being assigned additional work responsibilities.

(5) If a local board of education seeks to revise its school calendar under this section, the board shall submit a plan to the Kentucky Department of Education (KDE) demonstrating how 1,062 instructional hours will be completed for approval.

(6) KDE shall make a report to the Interim Joint Committee on Education by November 1, 2022, on how school districts with revised school calendars under this section completed the 1,062 hours.

➔Section 12. Whereas the Commonwealth's citizens, students, and children continue to face significant challenges due to the COVID-19 public health crisis, 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.

Veto overridden September 9, 2021.

CHAPTER 5

(SB 2)

AN ACT relating to COVID-19 emergency actions and declaring an emergency.

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

➔Section 1. (1) Notwithstanding any state law to the contrary, by October 1, 2021, and until January 31, 2022, the Cabinet for Health and Family Services shall require that visitation in a long-term care facility as defined in KRS 216A.010 or a residential long-term care facility as defined in KRS 216.510 be allowed by an essential compassionate care visitor, including a family member, legal guardian, outside caregiver, friend, or volunteer, who:

- (a) Provided regular care and support to the resident prior to the COVID-19 pandemic; and
 - (b) Is designated an essential compassionate care visitor who is important to the mental, physical, or social well-being of a resident in:
 1. Critical situations such as end of life;
 2. Instances of significant mental or social decline of the resident; or
 3. Exigent circumstances existing regarding a resident in the facility.
- (2) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A that:
- (a) Set forth procedures for the designation of a family member, legal guardian, outside caregiver, friend, or volunteer as an essential compassionate care visitor;
 - (b) Require all essential compassionate care visitors to follow safety protocols required for staff, including testing for communicable disease, checking body temperature, health screenings, the use of appropriate personal protective equipment, social distancing, and any other requirement the facility deems appropriate in accordance with guidance from the Centers for Disease Control and Prevention. If testing of communicable disease is not provided by the facility, the essential compassionate care visitor shall be responsible for obtaining testing per protocol mandated by the facility;
 - (c) Restrict visitation of essential compassionate care visitors to one room in the facility to provide compassionate care to the resident;
 - (d) Provide that essential compassionate care visitors shall be exempt from any prohibitions on visitation at a facility subject to the provisions of this subsection;
 - (e) Provide that the facility may require a written agreement with the essential compassionate care visitor;
 - (f) Require that essential compassionate care visitors assume the risk for exposure to COVID-19 and other viruses, provided the facility is compliant with the Kentucky Department for Public Health guidelines; and

(g) Provide that facilities are not required to accept visitors, except as required by this section.

➔Section 2. (1) No later than October 1, 2021, the Cabinet for Health and Family Services shall assist and support established and additional COVID-19 antibody administration centers (CAACs) throughout the Commonwealth and develop protocols for appropriate patient eligibility criteria for receiving treatments and proper protocol for the administration of treatments.

(2) CAACs shall:

- (a) Have at least one qualified treatment provider in each of the 15 Area Development Districts as permissible under federal law and guidance;
- (b) Be equipped with therapeutic drugs to treat COVID-19 that have full use or emergency use authorization approval from the United States Food and Drug Administration (FDA), including but not limited to REGEN-COV (casirivimab and imdevimab, administered together) monoclonal antibodies or other FDA-approved equivalents, in order to treat COVID-19 positive patients 12 years of age and older;
- (c) Allow volunteer health practitioners providing health services under KRS 39A.350 to 39A.366 to administer the therapeutic drugs; and
- (d) Not require prior authorization for administration of the therapeutic drugs.

(3) CAACs shall operate until January 31, 2022, unless otherwise reauthorized by the General Assembly.

➔Section 3. No later than October 1, 2021, the Cabinet for Health and Family Services shall assist and support hospitals, licensed health care providers, jails, prisons, homeless shelters, local health departments, and other entities in:

- (1) Acquiring sufficient COVID-19 tests;
- (2) Developing a plan for statewide distribution of the COVID-19 tests; and
- (3) Distributing for use all COVID-19 tests.

➔Section 4. No later than October 1, 2021, the Cabinet for Health and Family Services shall promulgate emergency administrative regulations in accordance with KRS Chapter 13A to implement Sections 2 and 3 of this Act.

➔Section 5. (1) Notwithstanding KRS 311A.170, until January 31, 2022, a paramedic may be employed by a hospital or nursing facility to work as a licensed paramedic in any department of a hospital or nursing facility subject to the following conditions:

- (a) The hospital or nursing facility in collaboration with the medical staff provides operating procedures and policies under which the paramedic operates that are consistent with the paramedic's scope of practice;
 - (b) A paramedic is permitted to render services only under the supervision of a medical director;
 - (c) A paramedic provides patient care services under the orders of a physician, physician assistant, or advanced practice registered nurse, or as delegated by a registered nurse; and
 - (d) The paramedic does not violate KRS 311A.175 or any other statute or administrative regulation relating to paramedics.
- (2) Subject to the provisions relating to the scope of practice of a paramedic, a hospital or nursing facility may require a paramedic to take additional training on any subject or skill which the paramedic may be required to perform in a hospital or nursing facility and demonstrate competency in the skill or subject to a competent evaluator.

➔Section 6. (1) The Cabinet for Health and Family Services shall by October 1, 2021, and until January 31, 2022, in partnership with any universities, colleges, and health care organizations in Kentucky:

- (a) Produce public service announcements providing information about the severe symptoms and effects of contracting COVID-19; and
- (b) Develop and initiate a public awareness campaign encouraging Kentuckians to talk with their doctor about the benefits of receiving a COVID-19 vaccination.

- (2) Partnerships may include individual athletes, coaches, physicians, and nurses affiliated with or employed by universities, colleges, and health care organizations in Kentucky.

➔Section 7. (1) In order to improve access to the COVID-19 vaccination and address disparities in immunization by expanding distribution of the vaccine to primary care providers, as recommended by the Centers for Disease Control and Prevention, the Cabinet for Health and Family Services, by October 1, 2021, shall:

- (a) Develop and implement a plan to significantly increase the distribution of COVID-19 vaccines to providers of primary care as defined in KRS 164.925 and to provide technical assistance and support to primary care providers regarding the completion of necessary forms, vaccine administration, confidence, and access;
 - (b) Create a singular form in accordance with federal law, to be used by providers of primary care who wish to be authorized, approved, or otherwise permitted to offer and administer COVID-19 vaccines to patients;
 - (c) Make the form created pursuant to paragraph (b) of this subsection available on its Web site; and
 - (d) Promulgate administrative regulations in accordance with KRS Chapter 13A for the storage of vaccines.
- (2) In developing and implementing a plan to significantly increase the distribution of COVID-19 vaccines to providers of primary care, the Cabinet for Health and Family Services may incorporate the federal Centers for Disease Control and Prevention's guidance on expanding COVID-19 vaccine distribution to primary care providers to address disparities in immunization published on April 14, 2021, and may seek technical assistance from the federal Centers for Disease Control and Prevention.

➔Section 8. KRS 205.636 is amended to read as follows:

- (1) As used in this section:

- (a) "COVID-19 pandemic" means the ***national emergency declaration concerning COVID-19 as declared by the President of the United States and the United States Department of Health and Human Services*** ~~[state of emergency declared by the Governor in response to COVID-19 on March 6, 2020, by Executive Order 2020-215];~~ and
- (b) "Temporary COVID-19 personal care attendant" or "PCA" means a person who is employed and received training in a skilled nursing facility under a temporary accommodation made to address work load increases and staffing shortages caused by the COVID-19 pandemic by the ~~Cabinet for Health and Family Services as authorized by KRS 214.020, Executive Order 2020-215, and the~~ suspension of federal regulatory and statutory provisions by the Centers for Medicare and Medicaid Services.

- (2) The Department for Medicaid Services shall accept the training requirements as included in the "Temporary COVID-19 Personal Care Attendant memorandum" issued April 14, 2020, by the Cabinet for Health and Family Services that are completed by a PCA who is in good standing with his or her employer ~~after the COVID-19 state of emergency is rescinded by the Governor~~. The PCA shall be deemed a state registered nurse aide and shall be placed on the Kentucky Nurse Aide Registry if:

- (a) A minimum of eighty (80) hours of PCA duties have been completed within a skilled nursing facility under the supervision of a licensed or registered nurse; and
- (b) Competency has been established by the following:
 - 1. Through an assessment in all areas of required nurse aide training as provided for in 42 C.F.R. sec. 483.152(b) by an instructor who is a licensed nurse confirmed by the facility to have completed instructor training required by the Department for Medicaid Services; and
 - 2. Successful completion of the nurse aide examination.

- (3) The Department for Medicaid Services shall:

- (a) Apply for any Medicaid waivers or state plan amendments necessary to implement subsection (2) of this section;
- (b) Incorporate the provisions under subsection (2) of this section into the nurse aide training and competency evaluation program requirements; and
- (c) Promulgate any administration regulation necessary to implement this subsection and subsection (2) of this section.

➔Section 9. KRS 214.036 is amended to read as follows:

- (1) Nothing contained in KRS 158.035, 214.010, 214.020, 214.032 to 214.036, and 214.990 shall be construed to require:
 - (a) The testing for tuberculosis or the immunization of any child at a time when, in the written opinion of his or her attending health care provider, such testing or immunization would be injurious to the child's health;
 - (b) The immunization of any child whose parents or guardian are opposed to medical immunization against disease, and who object by a written sworn statement to the immunization of such child based on religious grounds; or
 - (c) The immunization of any emancipated minor or adult who is opposed to medical immunization against disease, and who objects by a written sworn statement to the immunization based on religious grounds.
- (2) In the event of an epidemic in a given area, the Cabinet for Health and Family Services may require the immunization of all persons within the area of epidemic, against the disease responsible for such epidemic, except that any administrative regulation promulgated pursuant to KRS Chapter 13A, administrative order issued by the cabinet *or a local public health department*, or executive order issued pursuant to KRS Chapter 39A requiring such immunization shall not include:
 - (a) The immunization of any child or adult for whom, in the written opinion of his or her attending health care provider, such testing or immunization would be injurious to his or her health;
 - (b) The immunization of any child whose parents or guardians are opposed to medical immunization against disease and who object by a written sworn statement to the immunization based on religious grounds or conscientiously held beliefs; or
 - (c) The immunization of any emancipated minor or adult who is opposed to medical immunization against disease, and who objects by a written sworn statement to the immunization based on religious grounds or conscientiously held beliefs.
- (3) The cabinet shall:
 - (a) Develop and make available on its Web site a standardized form relating to exemptions in this section from the immunization requirements; and
 - (b) Accept a completed standardized form when submitted.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds that 902 KAR 2:211E, Covering the Face in Response to Declared National or State Public Health Emergency, was found deficient and then later withdrawn by the agency on June 11, 2021, as evidenced by the records of the Legislative Research Commission.*
- (2) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative regulation referenced in subsection (1) of this section shall be null, void, and unenforceable as of the effective date of this Act.*
- (3) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative body shall be prohibited from promulgating an administrative regulation that is identical to, or substantially the same as, the administrative regulation referenced in subsection (1) of this section for a period beginning on the effective date of this Act and concluding on June 1, 2023.*
- (4) *The administrative regulation referenced in subsection (1) of this section shall be available to the public, in the office of the Legislative Research Commission's regulations compiler.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

- (1) *The General Assembly finds that 902 KAR 2:212E, Covering the Face in Response to Declared National or State Public Health Emergency, was found deficient but remained effective notwithstanding the finding of deficiency pursuant to KRS 13A.330, on or after March 30, 2021, and before the effective date of this Act, as evidenced by the records of the Legislative Research Commission.*
- (2) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative regulation referenced in subsection (1) of this section shall be null, void, and unenforceable as of the effective date of this Act.*

- (3) *Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative body shall be prohibited from promulgating an administrative regulation that is identical to, or substantially the same as, the administrative regulation referenced in subsection (1) of this section for a period beginning on the effective date of this Act and concluding on June 1, 2023.*
- (4) *The administrative regulation referenced in subsection (1) of this section shall be available to the public, in the office of the Legislative Research Commission's regulations compiler.*

→Section 12. Whereas, the General Assembly desires to ensure that the citizens of the Commonwealth are protected for a specific period of time and that all possible prevention, treatment, and health care provider options are available, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Veto overridden September 9, 2021.