

1 AN ACT relating to charter schools and making an appropriation therefor.

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

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

5 *As used in Sections 1 to 10 of this Act:*

6 *(1) "Achievement academy" has the same meaning as "public charter school";*

7 *(2) "Achievement gap" means a disparity of outcomes on state standardized*
8 *examinations and other academic performance measures between subgroups of*
9 *students, especially groups defined by socioeconomic status, race, and ethnicity;*

10 *(3) "Applicant" means an eligible person or persons, organization, or entity that*
11 *seeks approval from a charter school authorizer to establish a public charter*
12 *school;*

13 *(4) "Charter application" means a proposal from an applicant to an authorizer to*
14 *enter into a charter contract whereby the proposed school obtains public charter*
15 *school status;*

16 *(5) "Charter contract" or "contract" means a fixed-term, renewable contract*
17 *between a charter school and an authorizer that identifies the roles, powers,*
18 *responsibilities, and performance expectations for each party to the contract*
19 *pursuant to Section 7 of this Act;*

20 *(6) "Charter school board of directors" means the independent board of a public*
21 *charter school that is party to the charter contract with the authorizer and whose*
22 *members have been elected or selected pursuant to the school's application;*

23 *(7) "Conversion public charter school" means a public charter school that existed as*
24 *a noncharter public school prior to becoming a public charter school;*

25 *(8) "Education service provider" means an education management organization,*
26 *school design provider, or any other partner entity with which a public charter*
27 *school contracts for educational design, implementation, or comprehensive*

1 management;

2 (9) "Local school board" means a school board exercising management and control
3 of a local school district;

4 (10) "Local school district" means a county or independent school district as
5 identified in KRS 160.010 and 160.020;

6 (11) "Parent" means a parent, guardian, or other person or entity having legal
7 custody of a child;

8 (12) "Public charter school" means a public school that

9 (a) Is a public body corporate and politic, exercising public power, including
10 the power in name to contract and be contracted with, sue and be sued, and
11 adopt bylaws not inconsistent with this section;

12 (b) Has autonomy over decisions, including but not limited to matters
13 concerning finance, personnel, scheduling, curriculum, and instruction;

14 (c) Is governed by an independent board of directors;

15 (d) Is established and operating under the terms of a charter contract between
16 the public charter school's board of directors and its authorizer;

17 (e) Is a public school to which parents choose to send their children;

18 (f) Is a public school that admits students on the basis of a random and open
19 lottery if more students apply for admission than can be accommodated;

20 (g) Offers a comprehensive instructional program within a public school
21 district;

22 (h) Operates in pursuit of a specific set of educational objectives as defined in
23 its charter contract; and

24 (i) Operates under the oversight of its authorizer in accordance with its charter
25 contract;

26 (13) "Public charter school authorizer" or "authorizer" means a local school board
27 of a local school district in which a public charter school is located or a

1 collaborative among local school boards that forms to set up a regional public
 2 charter school to be located within the area managed and controlled by those
 3 local school boards and which reviews, approves, or denies charter applications,
 4 enters into charter contracts with applicants, oversees public charter schools, and
 5 renews, does not renew, or revokes charter contracts;

6 (14) "Qualified teacher" means a person certified by the Education Professional
 7 Standards Board pursuant to KRS 161.028, 161.030, 161.046, or 161.048;

8 (15) "Start-up public charter school" means a public charter school that did not exist
 9 as a noncharter public school prior to becoming a public charter school;

10 (16) "State board" means the Kentucky Board of Education;

11 (17) "Student" means any child who is eligible for attendance in a public school in
 12 Kentucky; and

13 (18) "Virtual public charter school" means a public charter school that offers
 14 educational services primarily or completely through an online program.

15 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) The General Assembly hereby finds and declares that:

18 (a) Reducing achievement gaps in Kentucky is necessary for the state to realize
 19 its workforce and economic development potential;

20 (b) Past and current measures have been insufficient for making progress
 21 toward reducing the state's achievement gaps;

22 (c) Additional public school options are necessary to help reduce
 23 socioeconomic, racial, and ethnic achievement gaps; and

24 (d) The demand exists for high-quality public charter schools in the
 25 Commonwealth.

26 (2) The General Assembly hereby establishes a public charter school project to
 27 benefit parents, teachers, and community members by creating new, innovative,

- 1 and more flexible ways of educating all children within the public school system
2 and by advancing a renewed commitment to the mission, goals, and diversity of
3 public education. The purposes of the public charter school initiative are to:
- 4 (a) Improve student learning outcomes by creating additional high-performing
5 schools with high standards for student performance;
- 6 (b) Encourage the use of different, high-quality models of teaching, governing,
7 scheduling, or other aspects of schooling that meet a variety of student
8 needs;
- 9 (c) Close achievement gaps between high-performing and low-performing
10 groups of public school students;
- 11 (d) Allow schools freedom and flexibility in exchange for exceptional levels of
12 results-driven accountability;
- 13 (e) Increase high-quality educational opportunities within the public education
14 system for all students, especially those at risk of academic failure; and
- 15 (f) Provide students, parents, community members, and local entities with
16 expanded opportunities for involvement in the public education system.
- 17 (3) Beginning in academic year 2017-2018, any authorizer may authorize an
18 unlimited number of public charter schools within the boundary of the local
19 school district.
- 20 (4) (a) A public charter school authorized by a local school board or collaborative
21 may enroll students who reside within the boundaries of the
22 Commonwealth, with enrollment preference in application and lottery given
23 to students who reside within the boundary of the authorizing local board of
24 education.
- 25 (b) Enrollment preference for a conversion public charter school shall be given
26 to students who attended the school the previous school year. If the number
27 of students enrolled does not exceed the capacity of the school, secondary

1 preference shall be given to students who reside within the district boundary
2 in which the public charter school is located.

3 (c) Enrollment preference for public charter schools shall be given to students
4 enrolled in the public charter school the previous year and to siblings of
5 students already enrolled in the school. An enrollment preference for
6 returning students shall exclude those students from entering into a lottery,
7 as identified in paragraph (f) of this subsection.

8 (d) Enrollment preference may be given to the children of the public charter
9 school's board of directors and full-time employees of the public charter
10 school provided they constitute no more than ten percent (10%) of the total
11 student population.

12 (e) A public charter school may allow an enrollment preference for students
13 who meet federal eligibility requirements for free or reduced-price meals
14 and students who attend persistently low-achieving noncharter public
15 schools.

16 (f) If capacity is insufficient to enroll all students who wish to attend any
17 specific grade level or program at a public charter school, the school shall
18 select students through a randomized and transparent lottery.

19 (5) Consistent with the requirements of Sections 3 to 10, 11, and 12 of this Act, the
20 state board shall promulgate administrative regulations to guide student
21 application, lottery, and enrollment in public charter schools.

22 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
23 READ AS FOLLOWS:

24 (1) A public charter school shall be part of the state's system of public education but
25 shall be exempt from all statutes and administrative regulations applicable to the
26 state board, a local school district, or a school, except the public charter school
27 shall adhere to the same health, safety, civil rights, and disability rights

1 requirements as are applied to all public schools and to all requirements
2 otherwise identified in Sections 1 to 10, 11, and 12 of this Act.

3 (2) A public charter school may elect to comply with any one (1) or more provisions
4 of any state statute or administrative regulation.

5 (3) A public charter school shall:

6 (a) Be governed by a board of directors;

7 (b) Be established and operate in pursuit of a specific set of educational
8 objectives as defined in the charter contract between the school's board of
9 directors and its authorizer;

10 (c) Ensure students meet compulsory attendance requirements under KRS
11 158.030 and 158.100;

12 (d) Ensure high school course offerings meet or exceed the minimum required
13 under KRS 156.160 for high school graduation;

14 (e) Design its education programs to meet or exceed the student performance
15 standards adopted by the Kentucky Board of Education;

16 (f) Ensure students' participation in required state assessment of student
17 performance, as required under KRS 158.6453;

18 (g) Adhere to all generally accepted accounting principles and adhere to the
19 same financial audits, audit procedures, and audit requirements as are
20 applied to other public schools under KRS 156.265;

21 (h) Require criminal background checks for staff and volunteers, including
22 members of its governing board, as required of all public school employees
23 and volunteers within the public schools specified in KRS 160.380 and
24 161.148;

25 (i) Comply with open records and open meeting requirements under KRS
26 Chapter 61;

27 (j) Comply with purchasing requirements and limitations under KRS Chapter

- 1 45 and KRS 156.074 and 156.480;
- 2 (k) Provide instructional time that is at least equivalent to the student
- 3 instructional year specified in KRS 158.070;
- 4 (l) Provide data to the Kentucky Department of Education and the authorizer
- 5 as required by the Kentucky Department of Education or authorizer to
- 6 generate a school report card under KRS 158.6453;
- 7 (m) Operate under the oversight of its authorizer in accordance with its charter
- 8 contract and application;
- 9 (n) As a public body corporate, have all the powers necessary for carrying out
- 10 the terms of its charter contract, including the power to:
- 11 1. Receive and disburse funds for school purposes;
- 12 2. Secure appropriate insurance and enter into contracts and leases;
- 13 3. Contract with an education service provider, provided the board of
- 14 directors of the public charter school retains oversight and authority
- 15 over the school;
- 16 4. Incur debt in reasonable anticipation of the receipt of public or private
- 17 funds;
- 18 5. Pledge, assign, or encumber its assets to be used as collateral for loans
- 19 or extensions of credit;
- 20 6. Solicit and accept any gifts or grants for school purposes, subject to
- 21 applicable laws and the terms of its charter;
- 22 7. Acquire real property for use as its facility or facilities, from public or
- 23 private sources; and
- 24 8. Employ or contract with other entities for the provision of teaching,
- 25 professional, and support staff, as needed; and
- 26 (o) Conduct an admissions lottery if capacity is insufficient to enroll all
- 27 students who wish to attend the school and ensure that every student has a

1 fair opportunity to be considered in the lottery and that the lottery is
2 competently conducted, equitable, randomized, transparent, and impartial
3 so that students are accepted in a public charter school without regard to
4 ethnicity, national origin, religion, sex, income level, disabling condition,
5 proficiency in the English language, or academic or athletic ability.

6 (4) For purposes of this subsection, a member of the board of directors of a public
7 charter school shall be considered a board member under KRS 156.132 and an
8 officer under KRS 61.040 and shall be removed from office under the provisions
9 of those statutes.

10 (5) A local school district shall provide or publicize to parents and the general public
11 information about public charter school authorized by the local school district as
12 an enrollment option within the district to the same extent and through the same
13 means that the school district provides and publicizes information about
14 noncharter public schools in the district.

15 (6) A local school district shall not assign or require any student enrolled in the local
16 school district to attend a public charter school.

17 (7) (a) For purposes of ensuring compliance with this section and the charter
18 under which it operates, a public charter school shall be administered by a
19 public charter school board of directors accountable to the authorizer in a
20 manner agreed to in the charter contract, as negotiated between the public
21 charter school applicant and the authorizer.

22 (b) The board of directors of a public charter school shall consist of a
23 minimum of two (2) parents of students attending any public charter school
24 operating under the direction of the board of directors.

25 (c) A member of the board of directors of a public charter school shall:

26 1. Not be an employee of that school or of an education service provider
27 that provides services to the school; and

- 1 2. File full disclosure reports and identify any potential conflicts of
2 interest, relationships with management organizations, and
3 relationships with family members who are applying to or are
4 employed by the public charter school or have other business dealings
5 with the school, the management organization of the school, or any
6 other public charter school and shall make these documents available
7 online through the authorizer.
- 8 (8) Collectively, members of the board of directors shall possess expertise in
9 leadership, curriculum and instruction, law, and finance.
- 10 (9) (a) A board of directors may hold one (1) or more charter contracts.
11 (b) Each public charter school under contract with a board of directors shall be
12 separate and distinct from any other public charter school under contract
13 with the board of directors.
- 14 (10) The board of directors shall be responsible for the operation of its public charter
15 school, including but not limited to preparation of a budget, contracting for
16 services, school curriculum, and personnel matters.
- 17 (11) The board of directors shall:
18 (a) Ensure that all meetings of the board are publicized in advance according
19 to the rules governing the authorizer and are open to the public at times
20 convenient to parents; and
21 (b) Require any education service provider contracted with the board to provide
22 a monthly detailed budget to the board.
- 23 (12) (a) A public charter school may negotiate and contract with its authorizer or
24 any third party for the use, operation, and maintenance of a building and
25 grounds, liability insurance, and the provision of any service, activity, or
26 undertaking that the public charter school is required to perform in order to
27 carry out the educational program described in its charter. Any services for

1 which a public charter school contracts with a school district shall be
2 provided by the district at cost and shall be negotiated as a separate
3 agreement after final charter contract negotiations. The public charter
4 school shall have standing to sue and be sued in its own name for the
5 enforcement of any contract under color of authority granted by Sections 1
6 to 10 of this Act. A public charter school may own, rent, or lease its space.

7 (b) Any entity contracted to provide educational services or goods to a public
8 charter school in an amount exceeding ten thousand dollars (\$10,000) shall
9 be subject to the Open Records Act under KRS Chapter 61 for all records
10 associated with the contract.

11 (13) A public charter school shall be exempt from administrative regulations
12 governing public schools for purposes of zoning and local land use regulation.
13 The Finance and Administration Cabinet shall annually publish a list of vacant
14 and unused buildings and vacant and unused portions of buildings that are
15 owned by the state and that may be suitable for the operation of a public charter
16 school and shall provide the list to applicants for public charter schools and to
17 existing public charter schools upon request.

18 (14) A public charter school shall be nonsectarian in its programs, admissions
19 policies, employment practices, partnerships, and all other operations and shall
20 not have entrance requirements or charge tuition or fees, except that a public
21 charter school may require the payment of fees on the same basis and to the same
22 extent as other public schools.

23 (15) A public charter school shall not discriminate against any student, employee, or
24 any other person on the basis of ethnicity, religion, national origin, sex,
25 disability, special needs, athletic ability, academic ability, or any other ground
26 that would be unlawful if done by a public school.

27 (16) A public charter school shall serve one (1) or more of grades kindergarten

1 through twelve (12) and shall limit admission to students within the grade levels
2 served.

3 (17) A public charter school shall provide programs and services to a student with a
4 disability in accordance with the student's individualized education program and
5 all federal and state laws, rules, and regulations. A public charter school shall
6 deliver the services directly or contract with another provider to deliver the
7 services. A public charter school shall establish an admissions and release
8 committee at the school and the committee shall:

9 (a) Develop an individualized education program for each student with a
10 disability; or

11 (b) Review, revise, or utilize a student's individualized education program
12 completed by the admissions and release committee of the student's former
13 school. If needed, the committee shall work collaboratively with staff from
14 the student's former school to review and revise a student's existing
15 individualized education program.

16 (18) The local district in which the public charter school is located shall provide
17 transportation to a public charter school student who resides within the boundary
18 of the local district in which the public charter school is located. The local district
19 shall retain all funding allocated for student transportation.

20 (19) (a) A public charter school shall be eligible to participate in state-sponsored or
21 district-sponsored interscholastic athletics, academic programs,
22 competitions, awards, scholarships, and recognition programs for students,
23 educators, administrators, and schools to the same extent as noncharter
24 public schools. Participants shall comply with eligibility requirements of
25 students enrolled in noncharter public schools.

26 (b) A public charter school has no obligation to provide extracurricular
27 activities or access to facilities for students enrolled in the public charter

1 school.

2 (c) If a public charter school sponsors extracurricular activities, students
3 enrolled in the public charter school shall be considered eligible to
4 participate in interscholastic competitions by the Kentucky Board of
5 Education or the agency designated by the state board to manage
6 interscholastic athletics, if other eligibility requirements are met. A student
7 enrolled in a public charter school that sponsors an extracurricular activity
8 shall be ineligible to participate in that activity at any other school.

9 (20) Nothing in this section shall be construed to prevent the establishment of a
10 single-sex public charter school consistent with federal regulations or a public
11 charter school designed to provide expanded learning opportunities for students
12 at-risk of academic failure or for students with special needs.

13 (21) The authorizer of a public charter school shall semiannually consider for
14 approval a public charter school's proposed amendments to a charter contract.
15 The authorizer may consider requests for amendments more frequently upon
16 mutual agreement between the authorizer and the public charter school. The
17 denial of an amendment request is appealable pursuant to Section 6 of this Act.

18 (22) If a student who was previously enrolled in a public charter school enrolls in
19 another public school located within the state, the new school shall accept any
20 credits earned and grades received by the student in courses or instructional
21 programs while enrolled in the public charter school in a uniform and consistent
22 manner and according to the same criteria that is used to accept credits from
23 other public schools.

24 (23) A teacher employed by a local board of education under a continuing service
25 contract and offered employment with a public charter school shall be granted a
26 two (2) year leave of absence to teach in a public charter school. The leave of
27 absence shall commence on the first day of service to the public charter school.

1 During the first or second year of the leave of absence, the teacher may notify the
 2 local board of education that the teacher intends to return to a teaching position
 3 in the local school district. The teacher shall be allowed to return to a teaching
 4 position in the local school district at the appropriate salary for the teacher's
 5 years of experience and educational level. After two (2) years on leave, the
 6 relationship between the teacher and the local board of education shall be
 7 determined by the local board and the local board shall notify the teacher of the
 8 decision.

9 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
 10 READ AS FOLLOWS:

11 (1) An application to establish a public charter school may be submitted to a public
 12 charter school authorizer by teachers, parents, school administrators, community
 13 residents, public organizations, nonprofit organizations, or a combination
 14 thereof.

15 (2) An applicant shall submit an application for approval of a public charter school
 16 to an authorizer and simultaneously to the state board. Charter authorizers shall
 17 accept and document the date and time of receipt of all charter applications.

18 (3) The information provided in the application shall be consistent with this section
 19 and shall include:

20 (a) A mission statement and a vision statement for the public charter school,
 21 including the targeted student population and the community the school
 22 hopes to serve;

23 (b) A description of the school's proposed academic program that is aligned
 24 with state standards, and that implements one (1) or more of the purposes
 25 described in Section 2 of this Act, and the instructional methods that will
 26 support the implementation and success of the program;

27 (c) 1. The student achievement goals for the public charter school's

- 1 educational program and the chosen methods of evaluating whether
2 students have attained the skills and knowledge specified for those
3 goals; and
- 4 2. An explanation of how the school's proposed educational program is
5 likely to improve the achievement of traditionally underperforming
6 students in the local school district;
- 7 (d) The school's plan for using external, internal, and state-required
8 assessments to measure student progress on the performance framework as
9 identified in Section 7 of this Act, and how the school will use data to drive
10 instruction and continued school improvement;
- 11 (e) The proposed governance structure of the school, including a list of
12 members of the initial board of directors, a draft of bylaws that include the
13 description of the qualifications, terms, and methods of appointment or
14 election of directors, and the organizational structure of the school that
15 clearly presents lines of authority and reporting between the board of
16 directors, school administrators, staff, any related bodies such as advisory
17 bodies or parent and teacher councils, and any external organizations that
18 will play a role in managing the school;
- 19 (f) Plans and timelines for student recruitment and enrollment, including
20 policies and procedures for conducting transparent and random admission
21 lotteries that are open to the public, and that are consistent with Sections 2
22 and 3 of this Act;
- 23 (g) A proposed five (5) year budget, including the start-up year and projections
24 for four (4) additional years with clearly stated assumptions;
- 25 (h) Draft fiscal and internal control policies for the public charter school;
- 26 (i) Requirements and procedures for programmatic audits and assessments at
27 least once annually, with audits and assessments being comparable in scope

1 to those required of noncharter public schools;

2 (j) A draft handbook that outlines the personnel policies of the public charter
3 school, including the criteria to be used in the hiring of qualified teachers,
4 school administrators, and other school employees, a description of staff
5 responsibilities, and the school's plan to evaluate personnel on an annual
6 basis;

7 (k) A draft of the policies and procedures by which students may be disciplined,
8 including students with disabilities, which shall be consistent with the
9 requirements of due process and with state and federal laws and regulations
10 governing the placement of students with disabilities;

11 (l) A description of the facilities to be used by the public charter school,
12 including the location of the school, if known, and how the facility supports
13 the implementation of the school's academic program. If the facilities to be
14 used by the proposed school are not known at the time the application is
15 submitted, the applicant shall notify the authorizer within ten (10) business
16 days of acquiring facilities for the school. The school shall obtain
17 certification of occupancy for the facilities at least thirty (30) days prior to
18 the first student instructional day;

19 (m) The proposed ages and grade levels to be served by the public charter
20 school, including the planned, minimum, and maximum enrollment per
21 grade per year;

22 (n) The school calendar and school day schedule, which shall total at least the
23 equivalent to the student instructional year specified in KRS 158.070;

24 (o) Types and amounts of insurance coverage to be obtained by the public
25 charter school, which shall include adequate insurance for liability,
26 property loss, and the personal injury of students comparable to other
27 schools within the local school district operated by the local school board;

- 1 (p) A description of the health and food services to be provided to students
2 attending the school;
- 3 (q) Procedures to be followed in the case of the closure or dissolution of the
4 public charter school, including provisions for the transfer of students and
5 student records to the local school district in which the public charter
6 school is located or to another charter school located within the local school
7 district and an assurance and agreement to payment of net assets or equity,
8 after payment of debts as specified in Section 9 of this Act;
- 9 (r) A code of ethics for the school setting forth the standards of conduct
10 expected of its board of directors, officers, and employees;
- 11 (s) Plans for recruiting and developing staff;
- 12 (t) A staffing chart for the school's first year and a staffing chart for the term
13 of the charter;
- 14 (u) A plan for parental and community involvement in the school, including the
15 role of parents in the administration and governance of the school;
- 16 (v) The public charter school's plan for identifying and successfully serving
17 students with disabilities, students who are English language learners,
18 bilingual students, and students who are academically behind and gifted,
19 including but not limited to the school's plan for compliance with all
20 applicable federal and state laws and regulations;
- 21 (w) A description of cocurricular and extracurricular programs and how they
22 will be funded and delivered;
- 23 (x) The process by which the school will resolve any disputes with the
24 authorizer; and
- 25 (y) A detailed start-up plan, including financing, tasks, timelines, and
26 individuals responsible for carrying out the plan.
- 27 (4) If the public charter school applicant intends to contract with an education

1 service provider for educational program implementation or comprehensive
2 management, the application shall additionally require the applicant to:

3 (a) Provide evidence of success in serving student populations similar to the
4 targeted population, including demonstrated academic achievement as well
5 as successful management of nonacademic school functions, if applicable;

6 (b) Provide student performance data and financial audit reports for all current
7 and past public charter schools;

8 (c) Provide documentation of and explanation for any actions taken against
9 any of its public charter schools for academic, financial, or ethical
10 concerns;

11 (d) Provide evidence of current capacity for growth;

12 (e) Provide a term sheet setting forth:

13 1. The proposed duration of the service contract;

14 2. The annual proposed fees to be paid to the education service provider;

15 3. The roles and responsibilities of the board of directors, the school
16 staff, and the education service provider;

17 4. The scope of services and resources to be provided by the education
18 service provider;

19 5. Performance evaluation measures and timelines;

20 6. Compensation structure, including clear identification of all fees to be
21 paid to the education service provider;

22 7. Methods of contract oversight and enforcement;

23 8. Investment disclosure; and

24 9. Conditions for renewal and termination of the contract; and

25 (f) Disclose and explain any existing or potential conflicts of interest between
26 the board of directors and the proposed education service provider or any
27 affiliated business entities.

1 (5) In the case of a proposed public charter school that plans to establish a full-time
 2 virtual public charter school, in addition to the requirements of subsections (3)
 3 and (4) of this section, the application shall require the applicant to provide a
 4 description regarding the methods by which the school will:

5 (a) Meet the special needs of students that would be best served by virtual
 6 education;

7 (b) Ensure that adequate supports are available to students in their homes or
 8 regions, including parent-teacher conferences and interactions;

9 (c) Monitor student outcomes and administer state-required assessments to all
 10 students in a proctored setting;

11 (d) Establish and implement legally permissible criteria and processes for
 12 enrollment based on the existence of supports needed for student success;

13 (e) Provide the desired enrollment level of the school for each year of the
 14 contract with any increases in enrollment from one (1) year to the next
 15 based on whether the school meets its performance requirements;

16 (f) Provide detailed costs for the school and propose a funding level per student
 17 for the school that is based upon these detailed costs; and

18 (g) Provide data for oversight, funding, and renewal and closure decisions for
 19 full-time virtual public charter school-specific goals regarding student
 20 enrollment, attendance, engagement, achievement, truancy, and attrition
 21 that demonstrates the school meets agreed-upon benchmarks.

22 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
 23 READ AS FOLLOWS:

24 (1) A public charter school authorizer shall:

25 (a) Fulfill the expectations and intent of this section and Sections 1 to 10, 11,
 26 and 12 of this Act;

27 (b) Demonstrate public accountability and transparency in all matters

- 1 concerning its charter-authorizing practices, decisions, and expenditures;
- 2 (c) Solicit, invite, and evaluate applications from applicants;
- 3 (d) Approve new and renewal charter applications that meet the requirements
- 4 of this section and Section 4 of this Act;
- 5 (e) Decline to approve charter applications that:
- 6 1. Fail to meet the requirements of this section and Section 4 of this Act;
- 7 or
- 8 2. Are for a school that would be wholly or partly under the control or
- 9 direction of any religious denomination;
- 10 (f) Negotiate and execute in good faith a charter contract with each public
- 11 charter school it authorizes;
- 12 (g) Monitor the performance and compliance of public charter schools
- 13 according to the terms of the charter contract;
- 14 (h) Determine whether each charter contract it authorizes merits renewal or
- 15 revocation; and
- 16 (i) Establish and maintain policies and practices consistent with the principles
- 17 and professional standards for authorizers of public charter schools,
- 18 including standards relating to:
- 19 1. Organizational capacity and infrastructure;
- 20 2. Soliciting and evaluating applications;
- 21 3. Performance contracting;
- 22 4. Ongoing public charter school oversight and evaluation; and
- 23 5. Charter approval, renewal, and revocation decision making.
- 24 (2) In reviewing applications, the public charter school authorizer is encouraged to
- 25 give preference to applications that demonstrate the intent, capacity, and
- 26 capability to provide comprehensive learning experiences to:
- 27 (a) Students identified by the applicants as at risk of academic failure; and

- 1 (b) Students with special needs as identified in their individualized education
2 program as defined in KRS 158.281.
- 3 (3) After a charter applicant submits a written application to establish a public
4 charter school, the authorizer shall:
- 5 (a) Complete a thorough review process;
6 (b) Conduct an in-person interview with the applicant group;
7 (c) Provide an opportunity in a public forum for local residents to provide input
8 and learn about the charter application;
9 (d) Provide a detailed analysis of the application to the applicant or applicants;
10 (e) Allow an applicant a reasonable time to provide additional materials and
11 amendments to its application to address any identified deficiencies; and
12 (f) Approve or deny a charter application based on established objective
13 criteria or request additional information.
- 14 (4) In deciding to approve a charter application, the authorizer shall:
- 15 (a) Grant charters only to applicants that possess competence in all elements of
16 the application requirements identified in this section and Section 4 of this
17 Act;
18 (b) Base decisions on documented evidence collected through the application
19 review process; and
20 (c) Follow charter-granting policies and practices that are transparent, based
21 on merit, and avoid conflicts of interest.
- 22 (5) No later than sixty (60) days following the filing of the charter application, the
23 authorizer shall approve or deny the charter application. The authorizer shall
24 adopt by resolution all charter approval or denial decisions in an open meeting of
25 the authorizer's board of directors.
- 26 (6) An application shall be approved if the public charter school authorizer finds
27 that:

- 1 (a) The public charter school described in the application meets the
 2 requirements established by this section and Sections 1 and 3 of this Act;
 3 (b) The applicant demonstrates the ability to operate the school in an
 4 educationally and fiscally sound manner; and
 5 (c) Approving the application is likely to improve student learning and
 6 achievement and further the purposes established by Section 2 of this Act.
- 7 (7) An authorizer shall provide a written explanation within five (5) days, for the
 8 public record, stating its reasons for approval or denial of a charter application,
 9 including a thorough explanation of how the charter application either meets or
 10 fails to meet established objective criteria for making charter application
 11 decisions, and the authorizing process by which the authorizer used to review,
 12 evaluate, and make its final decision.
- 13 (8) An authorizer's charter application approval shall be submitted to the Kentucky
 14 Department of Education for final approval by the commissioner of education.

15 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
 16 READ AS FOLLOWS:

- 17 (1) The state board, upon receipt of a notice of appeal or upon its own motion, shall
 18 review decisions of any authorizer concerning the approval or denial of a public
 19 charter school application, the nonrenewal or revocation of a public charter
 20 school's contract, the denial of a public charter school's request to consider a
 21 charter amendment, or the unilateral imposition of conditions, in accordance
 22 with the provisions of this section.
- 23 (2) A charter applicant or approved public charter school who wishes to appeal a
 24 decision of an authorizer concerning a charter application, a charter amendment,
 25 or the nonrenewal or revocation of a charter, or the unilateral imposition of
 26 conditions, shall provide the state board and the authorizer with a notice of
 27 appeal within thirty (30) days after the authorizer's decision. The person bringing

1 the appeal shall limit the grounds of the appeal to the grounds for the denial of or
2 the nonrenewal or revocation of a charter, or the unilateral imposition of
3 conditions, whichever is being appealed, specified by the authorizer. The notice
4 shall include a brief statement of the reasons the public charter school applicant
5 or public charter school contends the authorizer's denial of or nonrenewal or
6 revocation of a charter, or imposition of conditions was in error.

7 (3) If the notice of appeal, or the motion to review by the state board, relates to an
8 authorizer's decision to deny, refuse to renew, or revoke a charter or to an
9 authorizer's unilateral imposition of conditions that are unacceptable to the
10 charter applicant or public charter school, the appeal and review process shall be
11 as follows:

12 (a) Within forty-five (45) days after receipt of the notice of appeal or the
13 making of a motion to review by the state board and after reasonable public
14 notice, the state board, at a public hearing which may be held in the school
15 district in which the proposed public charter school has applied for a
16 charter, shall review the decision of the authorizer and make its findings. If
17 the state board finds that the authorizer's decision was contrary to the best
18 interest of the students or community, the state board shall remand such
19 decision to the authorizer with written instructions for reconsideration
20 thereof. The instructions shall include specific recommendations
21 concerning the matters requiring reconsideration;

22 (b) Within thirty (30) days following the remand of a decision to the authorizer
23 and after reasonable public notice, the authorizer, at a public hearing, shall
24 reconsider its decision and make a final decision;

25 (c) If the authorizer's final decision is still to deny, refuse to renew, or revoke a
26 charter or to unilaterally impose conditions unacceptable to the charter
27 applicant, a second notice of appeal may be filed with the State Board of

- 1 Education within thirty (30) days following such final decision;
- 2 (d) Within thirty (30) days following receipt of the second notice of appeal or
3 the making of a motion for a second review by the State Board of Education
4 and after reasonable public notice, the state board, at a public hearing shall
5 determine if the final decision of the authorizer was contrary to the best
6 interest of the students or community. If such a finding is made, the state
7 board shall remand such final decision to the authorizer with instructions
8 to approve the charter application or amendment, or to renew or reinstate
9 the charter, or to approve or disapprove conditions imposed. The decision of
10 the state board shall be final and not subject to appeal; and
- 11 (e) Charters granted to applicants by authorizers after a successful appeal to
12 the state board, as outlined in paragraph (d) of this subsection, shall be
13 provided joint oversight by the authorizer and the state board for, at a
14 minimum, the first five (5) years of the school's operation, and until the
15 authorizer, state board, and public charter school agree that charter
16 oversight may be provided solely by the authorizer. The state board shall be
17 a formal participant in all authorizing decision making concerning the
18 public charter school during that period, and shall be included in all
19 communication between the public charter school and the authorizer. The
20 state board shall receive twenty-five percent (25%) of the total authorizer fee
21 received by the authorizer for each school it provides joint oversight
22 pursuant to this section.
- 23 (4) (a) Within ten (10) days of taking action to approve or deny a charter
24 application that has been remanded back to the authorizer for
25 reconsideration, the authorizer shall notify the state board of the action
26 taken.
- 27 (b) The authorizer shall provide a report to the charter applicant, the state

1 board, and the Education and Workforce Development Cabinet
 2 simultaneously and shall include a copy of the resolution adopted by the
 3 authorizer's board of directors identifying any action taken, the reason for
 4 the decision, and an assurance as to compliance with all of the procedural
 5 requirements and application elements found in this section and Sections 2
 6 and 4 of this Act.

7 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
 8 READ AS FOLLOWS:

9 (1) (a) For purposes of this section, a member of the board of directors of a public
 10 charter school shall be considered an officer under KRS 61.040 and shall,
 11 within sixty (60) days of final approval of an application, take an oath of
 12 office as required under KRS 62.010.

13 (b) The board of directors and the authorizer shall enter into a binding charter
 14 contract that establishes the academic and operational performance
 15 expectations and measures by which the public charter school will be
 16 evaluated.

17 (c) The executed charter contract shall become the final authorization for the
 18 public charter school. The charter contract shall include:

- 19 1. The term of the contract;
- 20 2. The agreements relating to each item required under subsection (3) of
 21 Section 3 and subsection (3) of Section 4 of this Act, as modified or
 22 supplemented during the approval process;
- 23 3. The rights and duties of each party;
- 24 4. The administrative relationship between the authorizer and the public
 25 charter school;
- 26 5. The allocation of funds, and the schedule to disburse funds to the
 27 public charter school by the authorizer;

- 1 6. The process the authorizer will use to provide ongoing oversight,
2 including a process to conduct annual site visits;
- 3 7. The specific commitments of the public charter school authorizer
4 relating to its obligations to oversee, monitor the progress of, and
5 supervise the public charter school;
- 6 8. The process and criteria the authorizer will use to annually monitor
7 and evaluate the overall academic, operating, and fiscal conditions of
8 the public charter school, including the process the authorizer will use
9 to oversee the correction of any deficiencies found in the annual
10 review;
- 11 9. The process for revision or amendment to the terms of the charter
12 contract agreed to by the authorizer and the board of directors of the
13 public charter school;
- 14 10. The process agreed to by the authorizer and the board of directors of
15 the public charter school that identifies how disputes between the
16 authorizer and the board will be handled; and
- 17 11. Any other terms and conditions agreed to by the authorizer and the
18 board of directors, including pre-opening conditions. Reasonable
19 conditions shall not include enrollment caps or operational
20 requirements that place undue constraints on a public charter school
21 or are contradictory to the provisions of Sections 1 to 10, 11, and 12 of
22 this Act. Such conditions, even when incorporated in a charter
23 contract, shall be considered unilaterally imposed conditions.
- 24 (d) 1. The performance provisions within a charter contract shall be based
25 on a performance framework that sets forth the academic and
26 operational performance indicators, measures, and metrics to be used
27 by the authorizer to evaluate each public charter school. The

- 1 performance framework shall include at a minimum indicators,
2 measures, and metrics for:
- 3 a. Student academic proficiency;
4 b. Student academic growth;
5 c. Achievement gaps in both student proficiency and student
6 growth between student subgroups, including race, sex,
7 socioeconomic status, and areas of exceptionality;
8 d. Student attendance;
9 e. Student suspensions;
10 f. Student withdrawals;
11 g. Student exits;
12 h. Recurrent enrollment from year to year;
13 i. College or career readiness at the end of grade twelve (12);
14 j. Financial performance and sustainability; and
15 k. Board of directors' performance and stewardship, including
16 compliance with all applicable statutes, administrative
17 regulations, and terms of the charter contract.
- 18 2. The performance framework shall allow the inclusion of additional
19 rigorous, valid, and reliable indicators proposed by a public charter
20 school to augment external evaluations of its performance. The
21 proposed indicators shall be consistent with the purposes of Sections 1
22 to 10, 11, and 12 of this Act and shall be negotiated with the
23 authorizer.
- 24 3. The performance framework shall require the disaggregation of
25 student performance data by subgroups, including race, sex,
26 socioeconomic status, and areas of exceptionality.
- 27 4. The authorizer shall be responsible for collecting, analyzing, and

1 reporting to the state board all state-required assessment and
2 achievement data for each public charter school it oversees.

3 (e) Annual student achievement performance targets shall be set, in
4 accordance with the state accountability system, by each public charter
5 school in conjunction with its authorizer, and those measures shall be
6 designed to help each school meet applicable federal, state, and authorizer
7 goals.

8 (f) The charter contract shall be signed by the chair of the governing board of
9 the authorizer and the chair of the board of directors of the public charter
10 school. An approved charter application shall not serve as a charter
11 contract for the public charter school.

12 (g) No public charter school may commence operations without a charter
13 contract executed according to this section and approved in an open
14 meeting of the governing board of the authorizer.

15 (2) Within five (5) days after entering into a charter contract, a copy of the executed
16 contract shall be submitted by the authorizer to the commissioner of education.

17 (3) The state board shall promulgate administrative regulations to establish the
18 process to be used to evaluate the performance of a charter school authorizer,
19 based upon the requirements of Sections 1 to 10, 11, 12, 13, and 14 of this Act,
20 and the actions to be taken in response to failures in performance.

21 (4) The commissioner of education shall apply for financial assistance through the
22 federal government for the planning, program design, and initial implementation
23 of public charter schools in the state within sixty (60) days after the effective date
24 of this Act or at the first available grant application period. Federal grants
25 include but are not limited to the Charter Schools Program administered by the
26 United States Department of Education.

27 (5) By August 31, 2019, and annually thereafter, each public charter school

1 authorizer shall submit to the commissioner of education, the secretary of the
 2 Education and Workforce Development Cabinet, and the Interim Joint
 3 Committee on Education a report to include:

4 (a) The names of each public charter school operating under contract with the
 5 authorizer during the previous academic year that:

6 1. Closed during or after the academic year; or

7 2. Had the contract nonrenewed or revoked;

8 (b) The names of each public charter school operating under contract with the
 9 authorizer during the previous academic year that have not yet begun to
 10 operate;

11 (c) The number of applications received, the number reviewed, and the number
 12 approved;

13 (d) A summary of the academic and financial performance of each public
 14 charter school operated under contract with the authorizer during the
 15 previous academic year; and

16 (e) The authorizing duties and functions performed by the authorizer during
 17 the previous academic year and a detailed accounting of how the authorizer
 18 used its three percent (3%) authorizing fee to support these duties and
 19 functions for each public charter school authorized.

20 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
 21 READ AS FOLLOWS:

22 (1) Upon the approval of a charter contract by a public charter school authorizer, the
 23 applicant shall be permitted to operate a public charter school for a term of up to
 24 five (5) years.

25 (2) The board of directors of the public charter school shall negotiate and execute a
 26 charter contract with the governing body of the authorizer.

27 (3) A public charter school shall have all corporate powers necessary and desirable

1 for carrying out a public charter school program in accordance with this section
 2 and the terms of the charter contract, including all of the powers of a local board
 3 of education and of a local school district, except as otherwise provided in
 4 Sections 1 to 10 of this Act.

5 (4) The powers granted to a public charter school under this section constitute the
 6 performance of essential public purposes and governmental purposes of this
 7 state. A public charter school shall be exempt to the same extent as other public
 8 schools from all taxation, fees, assessments, or special ad valorem levies on its
 9 earnings and its property. Instruments of conveyance to or from a public charter
 10 school and any bonds or notes issued by a public charter school, together with the
 11 income received, shall at all times be exempt from taxation.

12 (5) A public charter school shall not have the power to levy taxes or to acquire
 13 property by eminent domain, but shall have police powers to the same extent and
 14 under the same requirements as a local school district.

15 (6) The board of directors of the public charter school shall have final authority over
 16 policy and operational decisions of the public charter school, although the
 17 decision-making authority may be delegated to the administrators and staff of the
 18 school in accordance with the provisions of the charter contract.

19 (7) Notwithstanding any other statute to the contrary, no civil liability shall attach to
 20 any public charter school authorizer or to any of its members or employees,
 21 individually or collectively, for any acts or omissions of the public charter school.
 22 Neither the local school district nor the Commonwealth shall be liable for the
 23 debts or financial obligations of a public charter school or any person or
 24 corporate entity who operates a public charter school.

25 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO
 26 READ AS FOLLOWS:

27 (1) A charter contract may be renewed by the authorizer for a term of duration of

1 five (5) years, although the authorizer may vary the term to as few as three (3)
2 years. Any variation in the public charter school's term must be solely based on
3 the performance, demonstrated capacities, and particular circumstances of a
4 public charter school. Authorizers may grant renewal with specific conditions for
5 necessary improvements to a public charter school, but may not impose
6 conditions inconsistent with Sections 1 to 10 of this Act.

7 (2) (a) No later than one (1) calendar year prior to the expiration date of a charter
8 contract, an authorizer shall issue a public charter school performance
9 report and charter renewal application guidance to the public charter
10 school it authorized. The performance report shall summarize the school's
11 performance record to date, based on the performance framework required
12 under Section 7 of this Act and the charter contract, and shall provide
13 notice of any weaknesses or concerns related to the school that may
14 jeopardize its position in seeking renewal if not timely rectified and of any
15 strengths or achievements that support its position in seeking renewal.

16 (b) The school shall have twenty (20) days to respond to the performance report
17 and submit any corrections or clarification for the report to the authorizer.

18 (c) Within ten (10) days of receiving a school's response, the authorizer shall
19 review the response and issue a final performance report to the school.

20 (3) (a) The renewal application guidance shall, at a minimum, provide an
21 opportunity for the public charter school to:

22 1. Present additional evidence beyond the data contained in the
23 performance report supporting its case for charter renewal;

24 2. Describe improvements undertaken or planned for the school; and

25 3. Detail the school's plan for the next charter term.

26 (b) The renewal application guidance shall include or refer explicitly to the
27 criteria that will guide the authorizer's renewal decisions, which shall be

1 based on the performance framework as identified in the charter contract.

2 (4) (a) No later than six (6) months prior to the expiration date of a charter
3 contract, the board of directors of a public charter school seeking charter
4 contract renewal shall submit a renewal application to the authorizer
5 pursuant to the renewal application guidance issued by the authorizer.

6 (b) The authorizer shall rule by resolution on the renewal application no later
7 than thirty (30) days after receipt of the application.

8 (5) In making charter application, renewal, or other appealable decisions, an
9 authorizer shall:

10 (a) Base its decision on evidence of the public charter school's performance
11 over the term of the charter contract in accordance with the performance
12 framework required in the charter contract;

13 (b) Ensure that data used in making renewal decisions is available to the public
14 charter school and the public; and

15 (c) Provide a public report summarizing the evidence basis for each decision.

16 (6) A charter contract may not be renewed if the authorizer determines that the
17 public charter school has:

18 (a) Committed a material violation of any of the terms, conditions, standards,
19 or procedures required under Sections 1 to 10, 11, 12, 13, and 14 of this Act
20 or the charter contract, and has persistently failed to correct the violation
21 after fair and specific notice from the authorizer;

22 (b) Failed to meet or make significant progress toward the performance
23 expectations identified in the charter contract;

24 (c) Failed to meet generally accepted standards of fiscal management, and has
25 failed to correct the violation after fair and specific notice from the
26 authorizer; or

27 (d) Substantially violated any material provision of law from which the public

- 1 charter school was not exempted and has failed to correct the violation after
2 fair and specific notice from the authorizer.
- 3 (7) An authorizer may take immediate action to revoke a charter contract if a
4 violation threatens the health and safety of the students of the public charter
5 school.
- 6 (8) The State Board of Education shall promulgate administrative regulations
7 establishing a revocation and nonrenewal process for charter authorizers that:
- 8 (a) Provides the charter holder with a timely notification of the prospect of
9 revocation or nonrenewal and of the reasons for such possible closure;
- 10 (b) Allows a charter holder a reasonable time in which to prepare a response;
- 11 (c) Provides the charter holder with an opportunity to submit documentation
12 and provide testimony challenging the rationale behind the closure and in
13 support of the continuation of the school at an orderly proceeding held for
14 that purpose;
- 15 (d) Allows the charter holder the right to representation by counsel and to call
16 witnesses on behalf of the charter holder;
- 17 (e) Permits the recording of such proceedings; and
- 18 (f) After a reasonable period of deliberation, requires a final determination be
19 made and conveyed in writing to the charter holder.
- 20 (9) If an authorizer revokes or does not renew a contract, the authorizer shall clearly
21 state, in a resolution of its governing board the reason for the revocation or
22 nonrenewal.
- 23 (10) Within ten (10) days of taking action to renew, not renew, or revoke a charter, the
24 authorizer shall report to the state board the action taken, and shall provide a
25 report to the public charter school at the same time the report is issued to the state
26 board. The report shall include a copy of the resolution adopted by the
27 authorizer's governing board describing the action taken and reasons for the

1 decision and assurance as to compliance with all of the procedural requirements
2 and application elements found in Section 4 of this Act.

3 (11) (a) An authorizer shall develop a public charter school closure protocol to
4 ensure timely notification to parents, orderly transition of students and
5 student records to new schools, and proper disposition of school funds,
6 property, and assets. The protocol shall specify tasks, timelines, and
7 responsible parties, including delineating the respective duties of the school
8 and the authorizer. If a public charter school closes for any reason, the
9 authorizer shall oversee and work with the closing school to ensure a
10 smooth and orderly closure and transition for students and parents, as
11 guided by the closure protocol. If a public charter school is subject to
12 closure, following exhaustion of any appeal allowed under Section 6 of this
13 Act, an authorizer may remove at will at any time any or all of the members
14 of the board of directors of the public charter school in connection with
15 ensuring a smooth and orderly closure. If the authorizer removes members
16 of the board of directors such that the board of directors can no longer
17 function, the authorizer shall be empowered to take any further necessary
18 and proper acts connected with closure of the public charter school in the
19 name and interest of the public charter school.

20 (b) If a public charter school closes for any reason, the assets of the school
21 shall be distributed first to satisfy outstanding payroll obligations for
22 employees of the school, then to creditors of the school, then to the State
23 Treasurer for deposit into the state general fund. If the assets are
24 insufficient to satisfy outstanding obligations, the authorizer shall petition
25 the Circuit Court of the county in which the public charter school is located
26 to prioritize the distribution of assets.

27 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO

1 READ AS FOLLOWS:

- 2 (1) An existing public school not scheduled for closure may be converted into a
3 public charter school and be identified as a conversion public charter school if:
4 (a) Sixty percent (60%) of the parents of students who attend the school have
5 signed a petition requesting the conversion, which shall be completed not
6 later than ninety (90) days after the date of the first signature; or
7 (b) The local school board votes to convert an existing public school within its
8 district boundary.
- 9 (2) The State Board of Education shall promulgate administrative regulations for the
10 conversion of a noncharter public school to a conversion public charter school.
- 11 (3) A conversion public charter school shall be governed by a board of directors
12 constituted and empowered as provided in Section 3 of this Act.
- 13 (4) A conversion public charter school shall continue to comply with all federal and
14 state requirements concerning the treatment of children with special needs and
15 accept all students who attended the school prior to its conversion who wish to
16 attend. If the number of students enrolled does not exceed the capacity of the
17 school, enrollment preference shall be given first to students who reside within
18 the school district boundary in which the public charter school is located and
19 then to students who reside outside the district boundary.
- 20 (5) A conversion public charter school shall hire its own employees.
- 21 (6) An employee who works in a conversion public charter school shall be an
22 employee of the public charter school.
- 23 (7) (a) For any collective bargaining agreement entered into on or after the
24 effective date of this Act, a governing board shall not be bound by its
25 collective bargaining agreement for employees of a conversion public
26 charter school.
27 (b) Employees of a conversion public charter school may organize and

1 collectively bargain only as a unit separate from other school employees.

2 (8) A conversion public charter school shall continue to be housed in the same
3 public school facility and shall have the option of using the existing assets of the
4 school.

5 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO
6 READ AS FOLLOWS:

7 (1) As used in this section, "authorizer," "board of directors," "local school board,"
8 "public charter school," "school district," and "state board" have the same
9 meanings as in Section 1 of this Act.

10 (2) A public charter school shall serve as a school of location within its local
11 education agency.

12 (3) A student enrolled in the public charter schools who resides within the
13 boundaries of that local school district shall be included in the average daily
14 attendance of the authorizer and shall be reported for purposes of calculating the
15 state and local share of funding for the public charter school. School districts
16 shall transfer state and local funds to public charter schools on a proportionate
17 per pupil basis after local capital outlay funds, transportation funds, and a three
18 percent (3%) authorizer administrative fee are excluded from gross state and
19 local funds. Funds shall be transferred throughout the school year according to a
20 schedule determined by the state board. School districts shall be fined not less
21 than three percent (3%) of the total funding per funding period to be transferred
22 to the charter school for every three (3) days late on funds transfers.

23 (4) A student enrolled in a public charter school who resides outside the boundaries
24 of that local school district shall be included in the average daily attendance of
25 the student's school district of residence and shall be reported for purposes of
26 calculating the state and local share of funding for the public charter school. The
27 student's school district of residence shall transfer state and local funds to public

1 charter schools on a proportionate per pupil basis after transportation funds and
2 a one percent (1%) administrative fee for the school district are excluded from the
3 gross state and local funds. Funds shall be transferred throughout the school
4 year according to a schedule determined by the state board. School districts shall
5 be fined not less than three percent (3%) of the total funding per funding period
6 to be transferred to the public charter school for every three (3) days late on
7 funds transfers.

8 (5) The State Board of Education shall promulgate administrative regulations
9 governing the transfer of funds between local school districts, charter
10 authorizers, and public charter schools, and the imposition of fines for late funds
11 transfers. Fines imposed for late funds transfers shall be transferred to the public
12 charter school.

13 (6) A public charter school shall be eligible for federal and state competitive grants
14 and shall not be excluded from an opportunity to participate as an independent
15 educational entity so long as the available grants align with the grade levels
16 included in the public charter school and the other criteria established for the
17 respective grants.

18 (7) A public charter school shall receive a proportionate share of moneys generated
19 under federal and state categorical aid programs for students that are eligible for
20 the aid and attending the public charter school. A school district shall ensure that
21 a public charter school with rapidly expanding enrollment is treated equitably in
22 the calculation and disbursement of all federal and state categorical aid program
23 dollars in the year in which the public charter school has students or employees
24 who are eligible for such aid. Each public charter school that receives such aid
25 shall comply with all reporting requirements to receive such aid.

26 (8) The commissioner of education shall apply for all federal funding for which
27 public charter schools in the state are eligible.

1 (9) (a) The board of directors of a public charter school may accept gifts,
2 donations, or grants of any kind made to the school and expend or use the
3 gifts, donations, or grants in accordance with the conditions prescribed by
4 the donor.

5 (b) A gift or donation shall not be required for admission or used as a means to
6 gain admission to the public charter school.

7 (c) A gift, donation, or grant shall not be accepted by the board of directors if it
8 is subject to a condition that is contrary to law or contrary to the terms of
9 the contract between the public charter school and the authorizer.

10 (d) All gifts, donations, or grants shall be reported to the public charter school
11 authorizer in the public charter school's annual report.

12 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO
13 READ AS FOLLOWS:

14 (1) As used in this section, "public charter school," "local school board," and "local
15 school district" have the same meanings as in Section 1 of this Act.

16 (2) (a) Public charter school employees shall participate in the Teachers'
17 Retirement System or the County Employees Retirement System, as
18 determined by their eligibility for participation in the appropriate system
19 and provided the public charter school satisfies the criteria set by the
20 Internal Revenue Service to participate in a governmental retirement plan.

21 (b) Teachers and other certified personnel shall make any required employee
22 contributions to the Teachers' Retirement System under KRS 161.220 to
23 161.716.

24 (c) Classified employees shall make any required employee contributions to the
25 County Employees Retirement System under KRS 78.510 to 78.852.

26 (3) A public charter school employee shall not be required to be a member of any
27 collective bargaining agreement.

1 **(4) Any state appropriation for retirement, health, or life insurance benefits made on**
 2 **behalf of a local public school employee shall also be made on behalf of a public**
 3 **charter school employee.**

4 **(5) A local school board shall not require any employee of the local school district to**
 5 **be employed in a public charter school or any student enrolled in the school**
 6 **district to attend a public charter school.**

7 **(6) A local school board shall not harass, threaten, discipline, discharge, retaliate, or**
 8 **in any manner discriminate against any district employee involved directly or**
 9 **indirectly with an application to establish a public charter school.**

10 ➔Section 13. KRS 161.220 is amended to read as follows:

11 As used in KRS 161.220 to 161.716 and 161.990:

12 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to
 13 161.716 and 161.990 for payment of allowances to members;

14 (2) "Retirement allowance" means the amount annually payable during the course of his
 15 natural life to a member who has been retired by reason of service;

16 (3) "Disability allowance" means the amount annually payable to a member retired by
 17 reason of disability;

18 (4) "Member" means the commissioner of education, deputy commissioners, associate
 19 commissioners, and all division directors in the State Department of Education,
 20 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any
 21 full-time teacher or professional occupying a position requiring certification or
 22 graduation from a four (4) year college or university, as a condition of employment,
 23 and who is employed by public boards, institutions, or agencies as follows:

24 (a) Local boards of education;

25 (b) Eastern Kentucky University, Kentucky State University, Morehead State
 26 University, Murray State University, Western Kentucky University, and any
 27 community colleges established under the control of these universities;

- 1 (c) State-operated secondary area vocational education or area technology centers,
2 Kentucky School for the Blind, and Kentucky School for the Deaf;
- 3 (d) The Education Professional Standards Board, other public education agencies
4 as created by the General Assembly, and those members of the administrative
5 staff of the Teachers' Retirement System of the State of Kentucky whom the
6 board of trustees may designate by administrative regulation;
- 7 (e) Regional cooperative organizations formed by local boards of education or
8 other public educational institutions listed in this subsection, for the purpose
9 of providing educational services to the participating organizations;
- 10 (f) All full-time members of the staffs of the Kentucky Association of School
11 Administrators, Kentucky Education Association, Kentucky Vocational
12 Association, Kentucky High School Athletic Association, Kentucky Academic
13 Association, and the Kentucky School Boards Association who were members
14 of the Kentucky Teachers' Retirement System or were qualified for a position
15 covered by the system at the time of employment by the association in the
16 event that the board of directors of the respective association petitions to be
17 included. The board of trustees of the Kentucky Teachers' Retirement System
18 may designate by resolution whether part-time employees of the petitioning
19 association are to be included. The state shall make no contributions on
20 account of these employees, either full-time or part-time. The association shall
21 make the employer's contributions, including any contribution that is specified
22 under KRS 161.550. The provisions of this paragraph shall be applicable to
23 persons in the employ of the associations on or subsequent to July 1, 1972;
- 24 (g) Employees of the Council on Postsecondary Education who were employees
25 of the Department for Adult Education and Literacy and who were members
26 of the Kentucky Teachers' Retirement System at the time the department was
27 transferred to the council pursuant to Executive Order 2003-600;

- 1 (h) The Office of Career and Technical Education, except that the executive
2 director shall not be a member;
- 3 (i) The Office of Vocational Rehabilitation;
- 4 (j) The Kentucky Educational Collaborative for State Agency Children;
- 5 (k) The Governor's Scholars Program;
- 6 (l) Any person who is retired for service from the retirement system and is
7 reemployed by an employer identified in this subsection in a position that the
8 board of trustees deems to be a member;
- 9 (m) Employees of the former Cabinet for Workforce Development who are
10 transferred to the Kentucky Community and Technical College System and
11 who occupy positions covered by the Kentucky Teachers' Retirement System
12 shall remain in the Teachers' Retirement System. New employees occupying
13 these positions, as well as newly created positions qualifying for Teachers'
14 Retirement System coverage that would have previously been included in the
15 former Cabinet for Workforce Development, shall be members of the
16 Teachers' Retirement System;
- 17 (n) Effective January 1, 1998, employees of state community colleges who are
18 transferred to the Kentucky Community and Technical College System shall
19 continue to participate in federal old age, survivors, disability, and hospital
20 insurance, and a retirement plan other than the Kentucky Teachers' Retirement
21 System offered by Kentucky Community and Technical College System. New
22 employees occupying positions in the Kentucky Community and Technical
23 College System as referenced in KRS 164.5807(5) that would not have
24 previously been included in the former Cabinet for Workforce Development,
25 shall participate in federal old age, survivors, disability, and hospital insurance
26 and have a choice at the time of employment of participating in a retirement
27 plan provided by the Kentucky Community and Technical College System,

- 1 including participation in the Kentucky Teachers' Retirement System, on the
 2 same basis as faculty of the state universities as provided in KRS 161.540 and
 3 161.620;
- 4 (o) Employees of the Office of General Counsel, the Office of Budget and
 5 Administrative Services, and the Office of Quality and Human Resources
 6 within the Office of the Secretary of the former Cabinet for Workforce
 7 Development and the commissioners of the former Department for Adult
 8 Education and Literacy and the former Department for Technical Education
 9 who were contributing to the Kentucky Teachers' Retirement System as of
 10 July 15, 2000;
- 11 (p) Employees of the Kentucky Department of Education only who are graduates
 12 of a four (4) year college or university, notwithstanding a substitution clause
 13 within a job classification, and who are serving in a professional job
 14 classification as defined by the department;~~and~~
- 15 (q) The Governor's School for Entrepreneurs Program; and
 16 (r) Qualified teachers as defined in Section 1 of this Act employed by a board
 17 of directors of a public charter school as defined in Section 1 of this Act, if
 18 the public charter school satisfies the criteria set by the Internal Revenue
 19 Service to participate in a governmental retirement plan.
- 20 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
 21 and became a member of the retirement system created by 1938 (1st Extra. Sess.)
 22 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
 23 after that date, and any teacher who was a member of a local teacher retirement
 24 system in the public elementary or secondary schools of the state on or before July
 25 1, 1940, and continued to be a member of the system until he, with the membership
 26 of the local retirement system, became a member of the state Teachers' Retirement
 27 System or who becomes a member under the provisions of KRS 161.470(4);

- 1 (6) "New teacher" means any member not a present teacher;
- 2 (7) "Prior service" means the number of years during which the member was a teacher
3 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior
4 service shall be allowed or credited to any teacher;
- 5 (8) "Subsequent service" means the number of years during which the teacher is a
6 member of the Teachers' Retirement System after July 1, 1941;
- 7 (9) "Final average salary" means the average of the five (5) highest annual salaries
8 which the member has received for service in a covered position and on which the
9 member has made contributions, or on which the public board, institution, or
10 agency has picked-up member contributions pursuant to KRS 161.540(2), or the
11 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
12 which shall include picked-up member contributions. Additionally, the board of
13 trustees may approve a final average salary based upon the average of the three (3)
14 highest salaries for members who are at least fifty-five (55) years of age and have a
15 minimum of twenty-seven (27) years of Kentucky service credit. However, if any of
16 the five (5) or three (3) highest annual salaries used to calculate the final average
17 salary was paid within the three (3) years immediately prior to the date of the
18 member's retirement, the amount of salary to be included for each of those three (3)
19 years for the purpose of calculating the final average salary shall be limited to the
20 lesser of:
- 21 (a) The member's actual salary; or
- 22 (b) The member's annual salary that was used for retirement purposes during each
23 of the prior three (3) years, plus a percentage increase equal to the percentage
24 increase received by all other members employed by the public board,
25 institution, or agency, or for members of school districts, the highest
26 percentage increase received by members on any one (1) rank and step of the
27 salary schedule of the school district. The increase shall be computed on the

1 salary that was used for retirement purposes.

2 This limitation shall not apply if the member receives an increase in salary in a
3 percentage exceeding that received by the other members, and this increase was
4 accompanied by a corresponding change in position or in length of employment.

5 This limitation shall also not apply to the payment to a member for accrued annual
6 leave if the individual becomes a member before July 1, 2008, or accrued sick leave
7 which is authorized by statute and which shall be included as part of a retiring
8 member's annual compensation for the member's last year of active service;

9 (10) "Annual compensation" means the total salary received by a member as
10 compensation for all services performed in employment covered by the retirement
11 system during a fiscal year. Annual compensation shall not include payment for any
12 benefit or salary adjustments made by the public board, institution, or agency to the
13 member or on behalf of the member which is not available as a benefit or salary
14 adjustment to other members employed by that public board, institution, or agency.
15 Annual compensation shall not include the salary supplement received by a member
16 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no
17 circumstances shall annual compensation include compensation that is earned by a
18 member while on assignment to an organization or agency that is not a public board,
19 institution, or agency listed in subsection (4) of this section. In the event that federal
20 law requires that a member continue membership in the retirement system even
21 though the member is on assignment to an organization or agency that is not a
22 public board, institution, or agency listed in subsection (4) of this section, the
23 member's annual compensation for retirement purposes shall be deemed to be the
24 annual compensation, as limited by subsection (9) of this section, last earned by the
25 member while still employed solely by and providing services directly to a public
26 board, institution, or agency listed in subsection (4) of this section. The board of
27 trustees shall determine if any benefit or salary adjustment qualifies as annual

- 1 compensation. For an individual who becomes a member on or after July 1, 2008,
2 annual compensation shall not include lump-sum payments upon termination of
3 employment for accumulated annual or compensatory leave;
- 4 (11) "Age of member" means the age attained on the first day of the month immediately
5 following the birthdate of the member. This definition is limited to retirement
6 eligibility and does not apply to tenure of members;
- 7 (12) "Employ," and derivatives thereof, means relationships under which an individual
8 provides services to an employer as an employee, as an independent contractor, as
9 an employee of a third party, or under any other arrangement as long as the services
10 provided to the employer are provided in a position that would otherwise be covered
11 by the Kentucky Teachers' Retirement System and as long as the services are being
12 provided to a public board, institution, or agency listed in subsection (4) of this
13 section;
- 14 (13) "Regular interest" means interest at three percent (3%) per annum, except for an
15 individual who becomes a member on or after July 1, 2008, "regular interest" means
16 interest at two and one-half percent (2.5%) per annum for purposes of crediting
17 interest to the teacher savings account or any other contributions made by the
18 employee that are refundable to the employee upon termination of employment;
- 19 (14) "Accumulated contributions" means the contributions of a member to the teachers'
20 savings fund, including picked-up member contributions as described in KRS
21 161.540(2), plus accrued regular interest;
- 22 (15) "Annuitant" means a person who receives a retirement allowance or a disability
23 allowance;
- 24 (16) "Local retirement system" means any teacher retirement or annuity system created
25 in any public school district in Kentucky in accordance with the laws of Kentucky;
- 26 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
27 retirement plan year is concurrent with this fiscal year. A contract for a member

- 1 employed by a local board of education may not exceed two hundred sixty-one
2 (261) days in the fiscal year;
- 3 (18) "Public schools" means the schools and other institutions mentioned in subsection
4 (4) of this section;
- 5 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
6 receiving, at the time of death of the member, at least one-half (1/2) of the support
7 from the member for maintenance, including board, lodging, medical care, and
8 related costs;
- 9 (20) "Active contributing member" means a member currently making contributions to
10 the Teachers' Retirement System, who made contributions in the next preceding
11 fiscal year, for whom picked-up member contributions are currently being made, or
12 for whom these contributions were made in the next preceding fiscal year;
- 13 (21) "Full-time" means employment in a position that requires services on a continuing
14 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year
15 basis;
- 16 (22) "Full actuarial cost," when used to determine the payment that a member must pay
17 for service credit means the actuarial value of all costs associated with the
18 enhancement of a member's benefits or eligibility for benefit enhancements,
19 including health insurance supplement payments made by the retirement system.
20 The actuary for the retirement system shall determine the full actuarial value costs
21 and actuarial cost factor tables as provided in KRS 161.400;
- 22 (23) "Last annual compensation" means the annual compensation, as defined by
23 subsection (10) of this section and as limited by subsection (9) of this section,
24 earned by the member during the most recent period of contributing service, either
25 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
26 full year of service credit in the Kentucky Teachers' Retirement System, and which
27 compensation is used in calculating the member's initial retirement allowance,

1 excluding bonuses, retirement incentives, payments for accumulated sick, annual,
2 personal and compensatory leave, and any other lump-sum payment. For an
3 individual who becomes a member on or after July 1, 2008, payments for annual or
4 compensatory leave shall not be included in determining the member's last annual
5 compensation;

6 (24) "Participant" means a member, as defined by subsection (4) of this section, or an
7 annuitant, as defined by subsection (15) of this section;

8 (25) "Qualified domestic relations order" means any judgment, decree, or order,
9 including approval of a property settlement agreement, that:

10 (a) Is issued by a court or administrative agency; and

11 (b) Relates to the provision of child support, alimony payments, or marital property
12 rights to an alternate payee; and

13 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
14 participant, who is designated to be paid retirement benefits in a qualified domestic
15 relations order.

16 ➔Section 14. KRS 78.510 is amended to read as follows:

17 As used in KRS 78.510 to 78.852, unless the context otherwise requires:

18 (1) "System" means the County Employees Retirement System;

19 (2) "Board" means the board of trustees of the system as provided in KRS 78.780;

20 (3) "County" means any county, or nonprofit organization created and governed by a
21 county, counties, or elected county officers, sheriff and his employees, county clerk
22 and his employees, circuit clerk and his deputies, former circuit clerks or former
23 circuit clerk deputies, or political subdivision or instrumentality, including school
24 boards, public charter schools as defined in Section 1 of this Act if the public
25 charter school satisfies the criteria set by the Internal Revenue Service to
26 participate in a governmental retirement plan, charter county government, or
27 urban-county government participating in the system by order appropriate to its

1 governmental structure, as provided in KRS 78.530, and if the board is willing to
2 accept the agency, organization, or corporation, the board being hereby granted the
3 authority to determine the eligibility of the agency to participate;

4 (4) "School board" means any board of education participating in the system by order
5 appropriate to its governmental structure, as provided in KRS 78.530, and if the
6 board is willing to accept the agency or corporation, the board being hereby granted
7 the authority to determine the eligibility of the agency to participate;

8 (5) "Examiner" means the medical examiners as provided in KRS 61.665;

9 (6) "Employee" means every regular full-time appointed or elective officer or employee
10 of a participating county and the coroner of a participating county, whether or not he
11 qualifies as a regular full-time officer. The term shall not include persons engaged
12 as independent contractors, seasonal, emergency, temporary, and part-time workers.
13 In case of any doubt, the board shall determine if a person is an employee within the
14 meaning of KRS 78.510 to 78.852;

15 (7) "Employer" means a county, as defined in subsection (3) of this section, the elected
16 officials of a county, or any authority of the county having the power to appoint or
17 elect an employee to office or employment in the county;

18 (8) "Member" means any employee who is included in the membership of the system or
19 any former employee whose membership has not been terminated under KRS
20 61.535;

21 (9) "Service" means the total of current service and prior service as defined in this
22 section;

23 (10) "Current service" means the number of years and months of employment as an
24 employee, on and after July 1, 1958, for which creditable compensation is paid and
25 employee contributions deducted, except as otherwise provided;

26 (11) "Prior service" means the number of years and completed months, expressed as a
27 fraction of a year, of employment as an employee, prior to July 1, 1958, for which

1 creditable compensation was paid. An employee shall be credited with one (1)
2 month of prior service only in those months he received compensation for at least
3 one hundred (100) hours of work. Twelve (12) months of current service in the
4 system shall be required to validate prior service;

5 (12) "Accumulated contributions" means the sum of all amounts deducted from the
6 compensation of a member and credited to his individual account in the members'
7 account, including employee contributions picked up after August 1, 1982, pursuant
8 to KRS 78.610(4), together with interest credited on the amounts, and any other
9 amounts the member shall have contributed thereto, including interest credited
10 thereon. For members who begin participating on or after September 1, 2008,
11 "accumulated contributions" shall not include employee contributions that are
12 deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the
13 funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS
14 61.702(2)(b);

15 (13) "Creditable compensation" means all salary, wages, and fees, including payments
16 for compensatory time, paid to the employee as a result of services performed for
17 the employer or for time during which the member is on paid leave, which are
18 includable on the member's federal form W-2 wage and tax statement under the
19 heading "wages, tips, other compensation", including employee contributions
20 picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus,
21 severance pay, or employer-provided payment for purchase of service credit shall be
22 included as creditable compensation but shall be averaged over the employee's
23 service with the system in which it is recorded if it is equal to or greater than one
24 thousand dollars (\$1,000). If compensation includes maintenance and other
25 perquisites, the board shall fix the value of that part of the compensation not paid in
26 money. Living allowances, expense reimbursements, lump-sum payments for
27 accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other

1 items determined by the board shall be excluded. Creditable compensation shall
2 also include amounts that are not includable in the member's gross income by virtue
3 of the member having taken a voluntary salary reduction provided for under
4 applicable provisions of the Internal Revenue Code. Creditable compensation shall
5 also include elective amounts for qualified transportation fringes paid or made
6 available on or after January 1, 2001, for calendar years on or after January 1, 2001,
7 that are not includable in the gross income of the employee by reason of 26 U.S.C.
8 sec. 132(f)(4). For employees who begin participating on or after September 1,
9 2008, creditable compensation shall not include payments for compensatory time.
10 Creditable compensation shall not include training incentive payments for city
11 officers paid as set out in KRS 64.5277 to 64.5279. For employees who begin
12 participating on or after August 1, 2016, creditable compensation shall exclude
13 nominal fees paid for services as a volunteer;

14 (14) "Final compensation" means:

15 (a) For a member who begins participating before September 1, 2008, who is not
16 employed in a hazardous position, as provided in KRS 61.592, the creditable
17 compensation of the member during the five (5) fiscal years he was paid at the
18 highest average monthly rate divided by the number of months of service
19 credit during that five (5) year period multiplied by twelve (12). The five (5)
20 years may be fractional and need not be consecutive. If the number of months
21 of service credit during the five (5) year period is less than forty-eight (48),
22 one (1) or more additional fiscal years shall be used;

23 (b) For a member who is not employed in a hazardous position, as provided in
24 KRS 61.592, whose effective retirement date is between August 1, 2001, and
25 January 1, 2009, and whose total service credit is at least twenty-seven (27)
26 years and whose age and years of service total at least seventy-five (75), final
27 compensation means the creditable compensation of the member during the

1 three (3) fiscal years the member was paid at the highest average monthly rate
2 divided by the number of months of service credit during that three (3) year
3 period multiplied by twelve (12). The three (3) years may be fractional and
4 need not be consecutive. If the number of months of service credit during the
5 three (3) year period is less than twenty-four (24), one (1) or more additional
6 fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the
7 funding for this paragraph shall be provided from existing funds of the
8 retirement allowance;

9 (c) For a member who begins participating before September 1, 2008, who is
10 employed in a hazardous position, as provided in KRS 61.592, the creditable
11 compensation of the member during the three (3) fiscal years he was paid at
12 the highest average monthly rate divided by the number of months of service
13 credit during that three (3) year period multiplied by twelve (12). The three (3)
14 years may be fractional and need not be consecutive. If the number of months
15 of service credit during the three (3) year period is less than twenty-four (24),
16 one (1) or more additional fiscal years shall be used;

17 (d) For a member who begins participating on or after September 1, 2008, but
18 prior to January 1, 2014, who is not employed in a hazardous position, as
19 provided in KRS 61.592, the creditable compensation of the member during
20 the five (5) complete fiscal years immediately preceding retirement divided by
21 five (5). Each fiscal year used to determine final compensation must contain
22 twelve (12) months of service credit. If the member does not have five (5)
23 complete fiscal years that each contain twelve (12) months of service credit,
24 then one (1) or more additional fiscal years shall be used; or

25 (e) For a member who begins participating on or after September 1, 2008, but
26 prior to January 1, 2014, who is employed in a hazardous position, as
27 provided in KRS 61.592, the creditable compensation of the member during

- 1 the three (3) complete fiscal years he was paid at the highest average monthly
2 rate divided by three (3). Each fiscal year used to determine final
3 compensation must contain twelve (12) months of service credit;
- 4 (15) "Final rate of pay" means the actual rate upon which earnings of an employee were
5 calculated during the twelve (12) month period immediately preceding the
6 member's effective retirement date, and shall include employee contributions picked
7 up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to
8 the system by the employer and the following equivalents shall be used to convert
9 the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour
10 workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half
11 (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve
12 (12) months, one (1) year;
- 13 (16) "Retirement allowance" means the retirement payments to which a member is
14 entitled;
- 15 (17) "Actuarial equivalent" means a benefit of equal value when computed upon the
16 basis of the actuarial tables adopted by the board. In cases of disability retirement,
17 the options authorized by KRS 61.635 shall be computed by adding ten (10) years
18 to the age of the member, unless the member has chosen the Social Security
19 adjustment option as provided for in KRS 61.635(8), in which case the member's
20 actual age shall be used. For members who begin participating in the system prior to
21 January 1, 2014, no disability retirement option shall be less than the same option
22 computed under early retirement;
- 23 (18) "Normal retirement date" means the sixty-fifth birthday of a member unless
24 otherwise provided in KRS 78.510 to 78.852;
- 25 (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the
26 following June 30, which shall also be the plan year. The "fiscal year" shall be the
27 limitation year used to determine contribution and benefits limits as set out in 26

1 U.S.C. sec. 415;

2 (20) "Agency reporting official" means the person designated by the participating agency
3 who shall be responsible for forwarding all employer and employee contributions
4 and a record of the contributions to the system and for performing other
5 administrative duties pursuant to the provisions of KRS 78.510 to 78.852;

6 (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean
7 all positions that average one hundred (100) or more hours per month, determined
8 by using the number of hours actually worked in a calendar or fiscal year, or eighty
9 (80) or more hours per month in the case of noncertified employees of school
10 boards, determined by using the number of hours actually worked in a calendar or
11 school year, unless otherwise specified, except:

12 (a) Seasonal positions, which although temporary in duration, are positions which
13 coincide in duration with a particular season or seasons of the year and that
14 may recur regularly from year to year, in which case the period of time shall
15 not exceed nine (9) months, except for employees of school boards, in which
16 case the period of time shall not exceed six (6) months;

17 (b) Emergency positions that are positions that do not exceed thirty (30) working
18 days and are nonrenewable;

19 (c) Temporary, also referred to as probationary, positions that are positions of
20 employment with a participating agency for a period of time not to exceed
21 twelve (12) months and not renewable; or

22 (d) Part-time positions that are positions that may be permanent in duration, but
23 that require less than a calendar or fiscal year average of one hundred (100)
24 hours of work per month, determined by using the number of months actually
25 worked within a calendar or fiscal year, in the performance of duty, except in
26 case of noncertified employees of school boards, the school term average shall
27 be eighty (80) hours of work per month, determined by using the number of

1 months actually worked in a calendar or school year, in the performance of
2 duty;

3 (22) "Alternate participation plan" means a method of participation in the system as
4 provided for by KRS 78.530(3);

5 (23) "Retired member" means any former member receiving a retirement allowance or
6 any former member who has on file at the retirement office the necessary
7 documents for retirement benefits and is no longer contributing to the system;

8 (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly,
9 monthly, or yearly rate of pay converted to an annual rate as defined in final rate of
10 pay. The rate shall be certified by the employer;

11 (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the
12 member in accordance with KRS 61.542 or 61.705 to receive any available benefits
13 in the event of the member's death. As used in KRS 61.702, beneficiary shall not
14 mean an estate, trust, or trustee;

15 (26) "Recipient" means the retired member, the person or persons designated as
16 beneficiary by the member and drawing a retirement allowance as a result of the
17 member's death, or a dependent child drawing a retirement allowance. An alternate
18 payee of a qualified domestic relations order shall not be considered a recipient,
19 except for purposes of KRS 61.623;

20 (27) "Person" means a natural person;

21 (28) "School term or year" means the twelve (12) months from July 1 through the
22 following June 30;

23 (29) "Retirement office" means the Kentucky Retirement Systems office building in
24 Frankfort;

25 (30) "Delayed contribution payment" means an amount paid by an employee for current
26 service obtained under KRS 61.552. The amount shall be determined using the
27 same formula in KRS 61.5525, except the determination of the actuarial cost for

1 classified employees of a school board shall be based on their final compensation,
2 and the payment shall not be picked up by the employer. A delayed contribution
3 payment shall be deposited to the member's account and considered as accumulated
4 contributions of the individual member. In determining payments under this
5 subsection, the formula found in this subsection shall prevail over the one found in
6 KRS 212.434;

7 (31) "Participating" means an employee is currently earning service credit in the system
8 as provided in KRS 78.615;

9 (32) "Month" means a calendar month;

10 (33) "Membership date" means the date upon which the member began participating in
11 the system as provided in KRS 78.615;

12 (34) "Participant" means a member, as defined by subsection (8) of this section, or a
13 retired member, as defined by subsection (23) of this section;

14 (35) "Qualified domestic relations order" means any judgment, decree, or order,
15 including approval of a property settlement agreement, that:

16 (a) Is issued by a court or administrative agency; and

17 (b) Relates to the provision of child support, alimony payments, or marital
18 property rights to an alternate payee;

19 (36) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
20 participant, who is designated to be paid retirement benefits in a qualified domestic
21 relations order;

22 (37) "Accumulated employer credit" means the employer pay credit deposited to the
23 member's account and interest credited on such amounts as provided by KRS
24 16.583 and 61.597;

25 (38) "Accumulated account balance" means:

26 (a) For members who began participating in the system prior to January 1, 2014,
27 the member's accumulated contributions; or

1 (b) For members who began participating in the system on or after January 1,
2 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597,
3 the combined sum of the member's accumulated contributions and the
4 member's accumulated employer credit;

5 (39) "Volunteer" means an individual who:

6 (a) Freely and without pressure or coercion performs hours of service for an
7 employer participating in one (1) of the systems administered by Kentucky
8 Retirement Systems without receipt of compensation for services rendered,
9 except for reimbursement of actual expenses, payment of a nominal fee to
10 offset the costs of performing the voluntary services, or both; and

11 (b) If a retired member, does not become an employee, leased employee, or
12 independent contractor of the employer for which he or she is performing
13 volunteer services for a period of at least twenty-four (24) months following
14 the retired member's most recent retirement date; and

15 (40) "Nominal fee" means compensation earned for services as a volunteer that does not
16 exceed five hundred dollars (\$500) per month. Compensation earned for services as
17 a volunteer from more than one (1) participating employer during a month shall be
18 aggregated to determine whether the compensation exceeds the five hundred dollars
19 (\$500) per month maximum provided by this subsection.