

1 AN ACT relating to reorganization.

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

3 ➔Section 1. KRS 156.027 is amended to read as follows:

- 4 (1) The following definitions shall apply to this section:
- 5 (a) "Alternative format" means any medium or format for the presentation of  
6 instructional materials that is needed by a student with an individualized  
7 education program or Section 504 Plan for a reading accommodation other  
8 than standard print, including but not limited to Braille, large print, audio  
9 recordings, digital text, and digital talking books;
- 10 (b) "Braille," "individualized education program," and "blind students" have the  
11 same meaning as defined under KRS 158.281;
- 12 (c) "Comparable version" denotes that all elements of the print version are present  
13 in the electronic version, including graphics with ALT tags though not  
14 necessarily in the same order or format;
- 15 (d) "Legacy materials" means images and graphics requiring release and  
16 permission from another source other than the publisher; and
- 17 (e) "Section 504 Plan" means a written statement developed for a student with a  
18 disability that includes the provision of regular or special education and  
19 related aids and services designed to meet individual educational needs in  
20 accordance with the federal regulations issued under 34 C.F.R. sec. 104.33.
- 21 (2) The purpose of this section shall be to assure, to the extent feasible, that all students  
22 with disabilities in the public schools kindergarten through grade twelve (12) who  
23 require reading accommodations in accordance with an individualized education  
24 program or Section 504 Plan, including but not limited to students who are blind,  
25 visually impaired, or who have a specific learning disability as defined in KRS  
26 157.200 or other disability affecting reading, shall have access to textbooks and  
27 instructional materials as defined by administrative regulations of the Kentucky

1 Board of Education in alternative formats that are appropriate to their disability and  
2 educational needs.

3 (3) Notwithstanding any other statute to the contrary, the Department of Education shall  
4 give preferential procurement status to textbook and instructional materials from  
5 publishers who make their materials available in alternative formats for use by  
6 students with disabilities, or who can verify that an accessible format textbook or  
7 instructional material is currently available from or is in the process of being created  
8 by the American Printing House for the Blind, Recording for the Blind and  
9 Dyslexic, or another authorized entity, as defined under 17 U.S.C. sec. 121 and who  
10 commonly provide alternative format materials for use by students in Kentucky  
11 schools. The Department of Education may assign additional procurement  
12 preferences designed to ensure that students with disabilities have access to  
13 appropriate alternative formats to meet their needs.

14 (4) Effective July 1, 2003, the Department of Education shall require to the extent  
15 feasible any publisher of a textbook or program adopted for use in the public  
16 schools in kindergarten through grade twelve (12) to furnish computer files or  
17 electronic versions of the printed textbooks and instructional materials in formats  
18 comparable to the printed version that are compatible with commonly used Braille  
19 translation and speech synthesis software and include corrections and revisions as  
20 may be necessary to assure clarity in presentation and use. Navigation within and  
21 between files should be reasonably efficient so that the disabled learner is able to  
22 fully utilize the material in a manner that yields the same result as the print version  
23 affords a nondisabled learner. File format shall be limited to those formats that  
24 allow for a comparable version that is readable with text and screen readers such as  
25 HTML, XML, or other formats that meet the criteria stated in this subsection. For  
26 extreme cases where ALT tags are not feasible, a tag may read, "This item is too  
27 complicated to render with current technology." Legacy materials shall be exempt

1 from the criteria for this preference. These files shall be provided to the Department  
2 of Education~~[Division of Exceptional Children Services]~~ and shall be provided at  
3 the same time and in composition and form comparable with the printed version and  
4 include corrections and revisions as may be necessary to assure clarity in  
5 presentation and use. The Department of Education may define further requirements  
6 regarding additional characteristics of digital files submitted in compliance with this  
7 section as needed to provide appropriate alternative formats to meet the needs of  
8 students with disabilities.

9 (5) The Department of Education shall require publishers to make digital files, together  
10 with two (2) copies of the print version, available at no charge upon request to the  
11 American Printing House for the Blind for production of accessible Braille and  
12 other materials and to Recording for the Blind and Dyslexic or another authorized  
13 entity, as defined under 17 U.S.C. sec. 121, for production of accessible audio  
14 media, digital text, and digital talking books, which produce accessible format  
15 materials based on selection and scheduling needs.

16 (6) Nothing in this section shall in any way lessen the obligation of the public schools  
17 to provide for the instruction of blind students in the use of Braille in accordance  
18 with KRS 158.282 nor lessen the provision of Braille textbooks for blind students  
19 under KRS 156.476.

20 ➔Section 2. KRS 156.824 is amended to read as follows:

21 (1) (a) When a certified, equivalent, or unclassified employee has been finally  
22 ordered reinstated without loss of pay, pursuant to the provisions of KRS  
23 156.822, the board shall forward a certified copy of the order to the  
24 Department of Education. The department shall process proper payment to the  
25 employee for the period of suspension, the payment to be made out of the  
26 agency's appropriations. If no funds or insufficient funds are available in the  
27 agency's appropriations, then payment shall be made out of the judgments

1 section of the general fund of the biennial state budget.

2 (b) Gross moneys which are earned by the employee from other sources during  
3 the period of suspension shall set off against the gross sum due the employee,  
4 to the extent that the moneys were earned in a number of hours comparable to  
5 the length of time the employee would have worked in the previous job where  
6 dismissal occurred. The~~[executive director of the]~~ Office of Career and  
7 Technical Education shall by regulation provide an administrative procedure  
8 for determining reasonable earnings to be set off.

9 (c) All other deductions shall be deducted as required by law or by other state  
10 regulation.

11 (2) (a) Both the employee's and employer's contributions to the Kentucky Teachers'  
12 Retirement System or the Kentucky Employees Retirement System shall be  
13 based upon the gross amount due the employee, before set-off or deduction,  
14 except for set-off caused by earnings on which employee and employer  
15 contributions to the Kentucky Teachers' Retirement System or the Kentucky  
16 Employees Retirement System have been paid.

17 (b) Member and employer contributions paid into the system in which the  
18 employee participated after dismissal shall be transferred to the system in  
19 which the employee participated prior to illegal dismissal. In the event of a  
20 difference in member or employer contribution rates between the retirement  
21 system under which the member was covered prior to dismissal and the  
22 retirement system of participation before reinstatement by the board, the  
23 member and employer shall pay or receive a refund in order to adjust their  
24 respective contribution to the appropriate rate for the system under which the  
25 employee would have participated if dismissal had not occurred.

26 ➔Section 3. KRS 157.360 is amended to read as follows:

27 (1) (a) In determining the cost of the program to support education excellence in

1 Kentucky, the statewide guaranteed base funding level, as defined in KRS  
2 157.320, shall be computed by dividing the amount appropriated for this  
3 purpose by the prior year's statewide average daily attendance.

4 (b) When determining the biennial appropriations for the program, the average  
5 daily attendance for each fiscal year shall include an estimate of the number of  
6 students graduating early under the provisions of KRS 158.142.

7 (2) Each district shall receive an amount equal to the base funding level for each pupil  
8 in average daily attendance in the district in the previous year, except a district shall  
9 receive an amount equal to one-half (1/2) of the state portion of the average  
10 statewide per pupil guaranteed base funding level for each student who graduated  
11 early under the provisions of KRS 158.142. Each district's base funding level shall  
12 be adjusted by the following factors:

13 (a) The number of at-risk students in the district. At-risk students shall be  
14 identified as those approved for the free lunch program under state and federal  
15 guidelines. The number of at-risk students shall be multiplied by a factor to be  
16 established by the General Assembly. Funds generated under this paragraph  
17 may be used to pay for:

18 1. Alternative programs for students who are at risk of dropping out of  
19 school before achieving a diploma; and  
20 2. A hazardous duty pay supplement as determined by the local board of  
21 education to the teachers who work in alternative programs with  
22 students who are violent or assaultive;

23 (b) The number and types of exceptional children in the district as defined by  
24 KRS 157.200. Specific weights for each category of exceptionality shall be  
25 used in the calculation of the add-on factor for exceptional children; and

26 (c) Transportation costs. The per-pupil cost of transportation shall be calculated  
27 as provided by KRS 157.370. Districts which contract to furnish

1 transportation to students attending nonpublic schools may adopt any payment  
2 formula which assures that no public school funds are used for the  
3 transportation of nonpublic students.

4 (3) Beginning with the 2015-2016 school year and each year thereafter, the General  
5 Assembly shall annually allocate funds equal to one-half (1/2) of the state portion of  
6 the average statewide per pupil guaranteed base funding level for each student who  
7 graduated early under the provisions of KRS 158.142 the previous school year to  
8 the Kentucky Higher Education Assistance Authority for deposit in the early  
9 graduation scholarship trust fund.

10 (4) The program to support education excellence in Kentucky shall be fully  
11 implemented by the 1994-95 school year.

12 (5) (a) Except for those schools which have implemented school-based decision  
13 making, the commissioner of education shall enforce maximum class sizes for  
14 every academic course requirement in all grades except in vocal and  
15 instrumental music, and physical education classes. Except as provided in  
16 subsection (6) of this section, the maximum number of pupils enrolled in a  
17 class shall be as follows:

- 18 1. Twenty-four (24) in primary grades (kindergarten through third grade);
- 19 2. Twenty-eight (28) in grade four (4);
- 20 3. Twenty-nine (29) in grades five (5) and six (6);
- 21 4. Thirty-one (31) in grades seven (7) to twelve (12).

22 (b) Except for those schools which have implemented school-based decision  
23 making, class size loads for middle and secondary school classroom teachers  
24 shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

25 (c) The commissioner of education, upon approval of the Kentucky Board of  
26 Education, shall adopt administrative regulations for enforcing this provision.  
27 These administrative regulations shall include procedures for a superintendent

1 to request an exemption from the Kentucky Board of Education when unusual  
2 circumstances warrant an increased class size for an individual class. A  
3 request for an exemption shall include specific reasons for the increased class  
4 size with a plan for reducing the class size prior to the beginning of the next  
5 school year. A district shall not receive in any one (1) year exemptions for  
6 more classes than enroll twenty percent (20%) of the pupils in the primary  
7 grades and grades four (4) through eight (8).

8 (d) In all schools the commissioner of education shall enforce the special  
9 education maximum class sizes set by administrative regulations adopted by  
10 the Kentucky Board of Education. A superintendent may request an  
11 exemption pursuant to paragraph (c) of this subsection. A local school council  
12 may request a waiver pursuant to KRS 156.160(2). An exemption or waiver  
13 shall not be granted if the increased class size will impede any exceptional  
14 child from achieving his individual education program in the least restrictive  
15 environment.

16 (6) In grades four (4) through six (6) with combined grades, the maximum class size  
17 shall be the average daily attendance upon which funding is appropriated for the  
18 lowest assigned grade in the class. There shall be no exceptions to the maximum  
19 class size for combined classes. In combined classes other than the primary grades,  
20 no ungraded students shall be placed in a combined class with graded students. In  
21 addition, there shall be no more than two (2) consecutive grade levels combined in  
22 any one (1) class in grades four (4) through six (6). However, this shall not apply to  
23 schools which have implemented school-based decision making.

24 (7) If a local school district, through its admission and release committee, determines  
25 that an appropriate program in the least restrictive environment for a particular child  
26 with a disability includes either part-time or full-time enrollment with a private  
27 school or agency within the state or a public or private agency in another state, the

1 school district shall count as average daily attendance in a public school the time  
2 that the child is in attendance at the school or agency, contingent upon approval by  
3 the commissioner of education.

4 (8) Pupils attending a center for child learning and study established under an  
5 agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating  
6 average daily attendance, be considered as in attendance in the school district in  
7 which the child legally resides and which is party to the agreement. For purposes of  
8 subsection (1) of this section, teachers who are actually employees of the joint or  
9 cooperative action shall be considered as employees of each school district which is  
10 a party to the agreement.

11 (9) Program funding shall be increased when the average daily attendance in any  
12 district for the first two (2) months of the current school year is greater than the  
13 average daily attendance of the district for the first two (2) months of the previous  
14 school year. The program funds allotted the district shall be increased by the percent  
15 of increase. The average daily attendance in kindergarten is the kindergarten full-  
16 time equivalent pupils in average daily attendance.

17 (10) If the average daily attendance for the current school year in any district decreases  
18 by ten percent (10%) or more than the average daily attendance for the previous  
19 school year, the average daily attendance for purposes of calculating program  
20 funding for the next school year shall be increased by an amount equal to two-thirds  
21 ( $\frac{2}{3}$ ) of the decrease in average daily attendance. If the average daily attendance  
22 remains the same or decreases in the succeeding school year, the average daily  
23 attendance for purposes of calculating program funding for the following school  
24 year shall be increased by an amount equal to one-third ( $\frac{1}{3}$ ) of the decrease for the  
25 first year of the decline.

26 (11) If the percentage of attendance of any school district shall have been reduced more  
27 than two percent (2%) during the previous school year, the program funding allotted



1 the district for the current school year shall be increased by the difference in the  
2 percentage of attendance for the two (2) years immediately prior to the current  
3 school year less two percent (2%).

4 (12) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12)  
5 months per year. Vocational agriculture teachers shall be responsible for the  
6 following program of instruction during the time period beyond the regular  
7 school term established by the local board of education: supervision and  
8 instruction of students in agriculture experience programs; group and  
9 individual instruction of farmers and agribusinessmen; supervision of student  
10 members of agricultural organizations who are involved in leadership training  
11 or other activity required by state or federal law; or any program of vocational  
12 agriculture established by the ~~Division of Career and Technical Education in~~  
13 ~~the~~ Department of Education. During extended employment, no vocational  
14 agriculture teacher shall receive salary on a day that the teacher is scheduled to  
15 attend an institution of higher education class which could be credited toward  
16 meeting any certification requirement.

17 (b) Each teacher of agriculture employed shall submit an annual plan for summer  
18 program to the local school superintendent for approval. The summer plan  
19 shall include a list of tasks to be performed, purposes for each task, and time  
20 to be spent on each task. Approval by the local school superintendent shall be  
21 in compliance with the guidelines developed by the Department of Education.  
22 The supervision and accountability of teachers of vocational agriculture's  
23 summer programs shall be the responsibility of the local school  
24 superintendent. The local school superintendent shall submit to the  
25 commissioner of education a completed report of summer tasks for each  
26 vocational agriculture teacher. Twenty percent (20%) of the approved  
27 vocational agriculture programs shall be audited annually by the State

1 Department of Education to determine that the summer plan has been properly  
2 executed.

- 3 (13) (a) In allotting program funds for home and hospital instruction, statewide  
4 guaranteed base funding, excluding the capital outlay, shall be allotted for  
5 each child in average daily attendance in the prior school year who has been  
6 properly identified according to Kentucky Board of Education administrative  
7 regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall  
8 be reported monthly on forms provided by the Department of Education; and
- 9 (b) Pursuant to administrative regulations of the Kentucky Board of Education,  
10 local school districts shall be reimbursed for home and hospital instruction for  
11 pupils unable to attend regular school sessions because of short term health  
12 impairments. A reimbursement formula shall be established by administrative  
13 regulations to include such factors as a reasonable per hour, per child  
14 allotment for teacher instructional time, with a maximum number of funded  
15 hours per week, a reasonable allotment for teaching supplies and equipment,  
16 and a reasonable allotment for travel expenses to and from instructional  
17 assignments, but the formula shall not include an allotment for capital outlay.  
18 Attendance shall be calculated pursuant to KRS 157.270 and shall be reported  
19 annually on forms provided by the Department of Education.

- 20 (14) Except for those schools which have implemented school-based decision making  
21 and the school council has voted to waive this subsection, kindergarten aides shall  
22 be provided for each twenty-four (24) full-time equivalent kindergarten students  
23 enrolled.

- 24 (15) Effective July 1, 2001, there shall be no deduction applied against the base funding  
25 level for any pupil in average daily attendance who spends a portion of his or her  
26 school day in a program at a state-operated career and technical education or  
27 vocational facility.

1 (16) During a fiscal year, a school district may request that the Department of Education  
2 recalculate its funds allocated under this section if the current year average daily  
3 attendance for the twenty (20) day school month as defined in KRS 158.060(1) that  
4 contains the most days within the calendar month of January exceeds the prior year  
5 adjusted average daily attendance plus growth by at least one percent (1%). Any  
6 adjustments in the allotments approved under this subsection shall be proportional  
7 to the remaining days in the school year and subject to available funds under the  
8 program to support education excellence in Kentucky.

9 (17) To calculate the state portion of the program to support education excellence in  
10 Kentucky for a school district, the Department of Education shall subtract the local  
11 effort required under KRS 157.390(5) from the calculated base funding under the  
12 program to support education excellence in Kentucky, as required by this section.  
13 The value of the real estate used in this calculation shall be the lesser of the current  
14 year assessment or the prior year assessment increased by four percent (4%) plus the  
15 value of current year new property. The calculation under this subsection shall be  
16 subject to available funds.

17 (18) Notwithstanding any other statute or budget of the Commonwealth language to the  
18 contrary, time missed due to shortening days for emergencies may be made up by  
19 lengthening school days in the school calendar without any loss of funds under the  
20 program to support education excellence in Kentucky.

21 ➔Section 4. KRS 161.220 is amended to read as follows:

22 As used in KRS 161.220 to 161.716 and 161.990:

23 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to  
24 161.716 and 161.990 for payment of allowances to members;

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

27 (3) "Disability allowance" means the amount annually payable to a member retired by

1 reason of disability;

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

8 (a) Local boards of education;

9 (b) Eastern Kentucky University, Kentucky State University, Morehead State  
10 University, Murray State University, Western Kentucky University, and any  
11 community colleges established under the control of these universities;

12 (c) State-operated secondary area vocational education or area technology centers,  
13 Kentucky School for the Blind, and Kentucky School for the Deaf;

14 (d) The Education Professional Standards Board, other public education agencies  
15 as created by the General Assembly, and those members of the administrative  
16 staff of the Teachers' Retirement System of the State of Kentucky whom the  
17 board of trustees may designate by administrative regulation;

18 (e) Regional cooperative organizations formed by local boards of education or  
19 other public educational institutions listed in this subsection, for the purpose  
20 of providing educational services to the participating organizations;

21 (f) All full-time members of the staffs of the Kentucky Association of School  
22 Administrators, Kentucky Education Association, Kentucky Vocational  
23 Association, Kentucky High School Athletic Association, Kentucky Academic  
24 Association, and the Kentucky School Boards Association who were members  
25 of the Kentucky Teachers' Retirement System or were qualified for a position  
26 covered by the system at the time of employment by the association in the  
27 event that the board of directors of the respective association petitions to be

- 1 included. The board of trustees of the Kentucky Teachers' Retirement System  
2 may designate by resolution whether part-time employees of the petitioning  
3 association are to be included. The state shall make no contributions on  
4 account of these employees, either full-time or part-time. The association shall  
5 make the employer's contributions, including any contribution that is specified  
6 under KRS 161.550. The provisions of this paragraph shall be applicable to  
7 persons in the employ of the associations on or subsequent to July 1, 1972;
- 8 (g) Employees of the Council on Postsecondary Education who were employees  
9 of the Department for Adult Education and Literacy and who were members  
10 of the Kentucky Teachers' Retirement System at the time the department was  
11 transferred to the council pursuant to Executive Order 2003-600;
- 12 (h) The Office of Career and Technical Education~~[-except that the executive~~  
13 ~~director shall not be a member];~~
- 14 (i) The Office of Vocational Rehabilitation;
- 15 (j) The Kentucky Educational Collaborative for State Agency Children;
- 16 (k) The Governor's Scholars Program;
- 17 (l) Any person who is retired for service from the retirement system and is  
18 reemployed by an employer identified in this subsection in a position that the  
19 board of trustees deems to be a member;
- 20 (m) Employees of the former Cabinet for Workforce Development who are  
21 transferred to the Kentucky Community and Technical College System and  
22 who occupy positions covered by the Kentucky Teachers' Retirement System  
23 shall remain in the Teachers' Retirement System. New employees occupying  
24 these positions, as well as newly created positions qualifying for Teachers'  
25 Retirement System coverage that would have previously been included in the  
26 former Cabinet for Workforce Development, shall be members of the  
27 Teachers' Retirement System;

- 1 (n) Effective January 1, 1998, employees of state community colleges who are  
2 transferred to the Kentucky Community and Technical College System shall  
3 continue to participate in federal old age, survivors, disability, and hospital  
4 insurance, and a retirement plan other than the Kentucky Teachers' Retirement  
5 System offered by Kentucky Community and Technical College System. New  
6 employees occupying positions in the Kentucky Community and Technical  
7 College System as referenced in KRS 164.5807(5) that would not have  
8 previously been included in the former Cabinet for Workforce Development,  
9 shall participate in federal old age, survivors, disability, and hospital insurance  
10 and have a choice at the time of employment of participating in a retirement  
11 plan provided by the Kentucky Community and Technical College System,  
12 including participation in the Kentucky Teachers' Retirement System, on the  
13 same basis as faculty of the state universities as provided in KRS 161.540 and  
14 161.620;
- 15 (o) Employees of the Office of General Counsel, the Office of Budget and  
16 Administrative Services, and the Office of Quality and Human Resources  
17 within the Office of the Secretary of the former Cabinet for Workforce  
18 Development and the commissioners of the former Department for Adult  
19 Education and Literacy and the former Department for Technical Education  
20 who were contributing to the Kentucky Teachers' Retirement System as of  
21 July 15, 2000;
- 22 (p) Employees of the Kentucky Department of Education only who are graduates  
23 of a four (4) year college or university, notwithstanding a substitution clause  
24 within a job classification, and who are serving in a professional job  
25 classification as defined by the department; and
- 26 (q) The Governor's School for Entrepreneurs Program.
- 27 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,

1 and became a member of the retirement system created by 1938 (1st Extra. Sess.)  
2 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year  
3 after that date, and any teacher who was a member of a local teacher retirement  
4 system in the public elementary or secondary schools of the state on or before July  
5 1, 1940, and continued to be a member of the system until he, with the membership  
6 of the local retirement system, became a member of the state Teachers' Retirement  
7 System or who becomes a member under the provisions of KRS 161.470(4);

8 (6) "New teacher" means any member not a present teacher;

9 (7) "Prior service" means the number of years during which the member was a teacher  
10 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior  
11 service shall be allowed or credited to any teacher;

12 (8) "Subsequent service" means the number of years during which the teacher is a  
13 member of the Teachers' Retirement System after July 1, 1941;

14 (9) "Final average salary" means the average of the five (5) highest annual salaries  
15 which the member has received for service in a covered position and on which the  
16 member has made contributions, or on which the public board, institution, or  
17 agency has picked-up member contributions pursuant to KRS 161.540(2), or the  
18 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),  
19 which shall include picked-up member contributions. Additionally, the board of  
20 trustees may approve a final average salary based upon the average of the three (3)  
21 highest salaries for members who are at least fifty-five (55) years of age and have a  
22 minimum of twenty-seven (27) years of Kentucky service credit. However, if any of  
23 the five (5) or three (3) highest annual salaries used to calculate the final average  
24 salary was paid within the three (3) years immediately prior to the date of the  
25 member's retirement, the amount of salary to be included for each of those three (3)  
26 years for the purpose of calculating the final average salary shall be limited to the  
27 lesser of:

- 1 (a) The member's actual salary; or
- 2 (b) The member's annual salary that was used for retirement purposes during each
- 3 of the prior three (3) years, plus a percentage increase equal to the percentage
- 4 increase received by all other members employed by the public board,
- 5 institution, or agency, or for members of school districts, the highest
- 6 percentage increase received by members on any one (1) rank and step of the
- 7 salary schedule of the school district. The increase shall be computed on the
- 8 salary that was used for retirement purposes.

9 This limitation shall not apply if the member receives an increase in salary in a

10 percentage exceeding that received by the other members, and this increase was

11 accompanied by a corresponding change in position or in length of employment.

12 This limitation shall also not apply to the payment to a member for accrued annual

13 leave if the individual becomes a member before July 1, 2008, or accrued sick leave

14 which is authorized by statute and which shall be included as part of a retiring

15 member's annual compensation for the member's last year of active service;

16 (10) "Annual compensation" means the total salary received by a member as

17 compensation for all services performed in employment covered by the retirement

18 system during a fiscal year. Annual compensation shall not include payment for any

19 benefit or salary adjustments made by the public board, institution, or agency to the

20 member or on behalf of the member which is not available as a benefit or salary

21 adjustment to other members employed by that public board, institution, or agency.

22 Annual compensation shall not include the salary supplement received by a member

23 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no

24 circumstances shall annual compensation include compensation that is earned by a

25 member while on assignment to an organization or agency that is not a public board,

26 institution, or agency listed in subsection (4) of this section. In the event that federal

27 law requires that a member continue membership in the retirement system even



1       though the member is on assignment to an organization or agency that is not a  
2       public board, institution, or agency listed in subsection (4) of this section, the  
3       member's annual compensation for retirement purposes shall be deemed to be the  
4       annual compensation, as limited by subsection (9) of this section, last earned by the  
5       member while still employed solely by and providing services directly to a public  
6       board, institution, or agency listed in subsection (4) of this section. The board of  
7       trustees shall determine if any benefit or salary adjustment qualifies as annual  
8       compensation. For an individual who becomes a member on or after July 1, 2008,  
9       annual compensation shall not include lump-sum payments upon termination of  
10      employment for accumulated annual or compensatory leave;

11     (11) "Age of member" means the age attained on the first day of the month immediately  
12      following the birthdate of the member. This definition is limited to retirement  
13      eligibility and does not apply to tenure of members;

14     (12) "Employ," and derivatives thereof, means relationships under which an individual  
15      provides services to an employer as an employee, as an independent contractor, as  
16      an employee of a third party, or under any other arrangement as long as the services  
17      provided to the employer are provided in a position that would otherwise be covered  
18      by the Kentucky Teachers' Retirement System and as long as the services are being  
19      provided to a public board, institution, or agency listed in subsection (4) of this  
20      section;

21     (13) "Regular interest" means interest at three percent (3%) per annum, except for an  
22      individual who becomes a member on or after July 1, 2008, "regular interest" means  
23      interest at two and one-half percent (2.5%) per annum for purposes of crediting  
24      interest to the teacher savings account or any other contributions made by the  
25      employee that are refundable to the employee upon termination of employment;

26     (14) "Accumulated contributions" means the contributions of a member to the teachers'  
27      savings fund, including picked-up member contributions as described in KRS

- 1           161.540(2), plus accrued regular interest;
- 2   (15) "Annuitant" means a person who receives a retirement allowance or a disability  
3       allowance;
- 4   (16) "Local retirement system" means any teacher retirement or annuity system created  
5       in any public school district in Kentucky in accordance with the laws of Kentucky;
- 6   (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The  
7       retirement plan year is concurrent with this fiscal year. A contract for a member  
8       employed by a local board of education may not exceed two hundred sixty-one  
9       (261) days in the fiscal year;
- 10   (18) "Public schools" means the schools and other institutions mentioned in subsection  
11       (4) of this section;
- 12   (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was  
13       receiving, at the time of death of the member, at least one-half (1/2) of the support  
14       from the member for maintenance, including board, lodging, medical care, and  
15       related costs;
- 16   (20) "Active contributing member" means a member currently making contributions to  
17       the Teachers' Retirement System, who made contributions in the next preceding  
18       fiscal year, for whom picked-up member contributions are currently being made, or  
19       for whom these contributions were made in the next preceding fiscal year;
- 20   (21) "Full-time" means employment in a position that requires services on a continuing  
21       basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year  
22       basis;
- 23   (22) "Full actuarial cost," when used to determine the payment that a member must pay  
24       for service credit means the actuarial value of all costs associated with the  
25       enhancement of a member's benefits or eligibility for benefit enhancements,  
26       including health insurance supplement payments made by the retirement system.  
27       The actuary for the retirement system shall determine the full actuarial value costs

- 1 and actuarial cost factor tables as provided in KRS 161.400;
- 2 (23) "Last annual compensation" means the annual compensation, as defined by  
3 subsection (10) of this section and as limited by subsection (9) of this section,  
4 earned by the member during the most recent period of contributing service, either  
5 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)  
6 full year of service credit in the Kentucky Teachers' Retirement System, and which  
7 compensation is used in calculating the member's initial retirement allowance,  
8 excluding bonuses, retirement incentives, payments for accumulated sick, annual,  
9 personal and compensatory leave, and any other lump-sum payment. For an  
10 individual who becomes a member on or after July 1, 2008, payments for annual or  
11 compensatory leave shall not be included in determining the member's last annual  
12 compensation;
- 13 (24) "Participant" means a member, as defined by subsection (4) of this section, or an  
14 annuitant, as defined by subsection (15) of this section;
- 15 (25) "Qualified domestic relations order" means any judgment, decree, or order,  
16 including approval of a property settlement agreement, that:
- 17 (a) Is issued by a court or administrative agency; and  
18 (b) Relates to the provision of child support, alimony payments, or marital  
19 property rights to an alternate payee; and
- 20 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a  
21 participant, who is designated to be paid retirement benefits in a qualified domestic  
22 relations order.
- 23 ➔Section 5. KRS 194A.135 is amended to read as follows:
- 24 (1) The Commonwealth Council on Developmental Disabilities is created within the  
25 cabinet.
- 26 (2) The Commonwealth Council on Developmental Disabilities is established to  
27 comply with the requirements of the Developmental Disabilities Act of 1984 and

1 any subsequent amendment to that act.

2 (3) The members of the Commonwealth Council on Developmental Disabilities shall  
3 be appointed by the Governor to serve as advocates for persons with developmental  
4 disabilities. The council shall be composed of twenty-six (26) members.

5 (a) Ten (10) members shall be representatives of: the principal state agencies  
6 administering funds provided under the Rehabilitation Act of 1973 as  
7 amended; the state agency that administers funds provided under the  
8 Individuals with Disabilities Education Act (IDEA); the state agency that  
9 administers funds provided under the Older Americans Act of 1965 as  
10 amended; the single state agency designated by the Governor for  
11 administration of Title XIX of the Social Security Act for persons with  
12 developmental disabilities; higher education training facilities, each  
13 university-affiliated program or satellite center in the Commonwealth; and the  
14 protection and advocacy system established under Public Law 101-496. These  
15 members shall represent the following:

- 16 1. Office of Vocational Rehabilitation;
- 17 2. Office for the Blind;
- 18 3. ~~Division of Exceptional Children, within the~~ Department of Education;
- 19 4. Department for Aging and Independent Living;
- 20 5. Department for Medicaid Services;
- 21 6. Department of Public Advocacy, Protection and Advocacy Division;
- 22 7. University-affiliated programs;
- 23 8. Local and nongovernmental agencies and private nonprofit groups  
24 concerned with services for persons with developmental disabilities;
- 25 9. Department for Behavioral Health, Developmental and Intellectual  
26 Disabilities; and
- 27 10. Department for Public Health, Division of Maternal and Child Health.

- 1           (b) At least sixty percent (60%) of the members of the council shall be composed  
2           of persons with developmental disabilities or the parents or guardians of  
3           persons, or immediate relatives or guardians of persons with mentally  
4           impairing developmental disabilities, who are not managing employees or  
5           persons with ownership or controlling interest in any other entity that receives  
6           funds or provides services under the Developmental Disabilities Act of 1984  
7           as amended and who are not employees of a state agency that receives funds  
8           or provides services under this section. Of these members, five (5) members  
9           shall be persons with developmental disabilities, and five (5) members shall  
10          be parents or guardians of children with developmental disabilities or  
11          immediate relatives or guardians of adults with mentally impairing  
12          developmental disabilities who cannot advocate for themselves. Six (6)  
13          members shall be a combination of individuals in these two (2) groups, and at  
14          least one (1) of these members shall be an immediate relative or guardian of  
15          an institutionalized or previously institutionalized person with a  
16          developmental disability or an individual with a developmental disability who  
17          resides in an institution or who previously resided in an institution.
- 18          (c) Members not representing principal state agencies shall be appointed for a  
19          term of three (3) years. Members shall serve no more than two (2) consecutive  
20          three (3) year terms. Members shall serve until their successors are appointed  
21          or until they are removed for cause.
- 22          (d) The council shall elect its own chair, adopt bylaws, and operate in accordance  
23          with its bylaws. Members of the council who are not state employees shall be  
24          reimbursed for necessary and actual expenses. The cabinet shall provide  
25          personnel adequate to insure that the council has the capacity to fulfill its  
26          responsibilities. The council shall be headed by an executive director. If the  
27          executive director position becomes vacant, the council shall be responsible

1 for the recruitment and hiring of a new executive director.

2 (4) The Commonwealth Council on Developmental Disabilities shall:

3 (a) Develop, in consultation with the cabinet, and implement the state plan as  
4 required by Part B of the Developmental Disabilities Act of 1984, as  
5 amended, with a goal of development of a coordinated consumer and family  
6 centered focus and direction, including the specification of priority services  
7 required by that plan;

8 (b) Monitor, review, and evaluate, not less often than annually, the  
9 implementation and effectiveness of the state plan in meeting the plan's  
10 objectives;

11 (c) To the maximum extent feasible, review and comment on all state plans that  
12 relate to persons with developmental disabilities;

13 (d) Submit to the secretary of the cabinet, the commissioner of the Department for  
14 Behavioral Health, Developmental and Intellectual Disabilities, and the  
15 Secretary of the United States Department of Health and Human Services any  
16 periodic reports on its activities as required by the United States Department  
17 of Health and Human Services and keep records and afford access as the  
18 cabinet finds necessary to verify the reports;

19 (e) Serve as an advocate for individuals with developmental disabilities and  
20 conduct programs, projects, and activities that promote systematic change and  
21 capacity building;

22 (f) Examine, not less than once every five (5) years, the provision of and need for  
23 federal and state priority areas to address, on a statewide and comprehensive  
24 basis, urgent needs for services, supports, and other assistance for individuals  
25 with developmental disabilities and their families; and

26 (g) Prepare, approve, and implement a budget that includes amounts paid to the  
27 state under the Developmental Disabilities Act of 1984, as amended, to fund

1           all programs, projects, and activities under that Act.

2           ➔Section 6. The following KRS section is repealed:

3   156.017 Regional service centers.

4           ➔Section 7. In order to reflect the reorganization effectuated by this Act, the  
5 reviser of statutes shall replace references in the Kentucky Revised Statutes to the  
6 agencies, subagencies, and officers affected by this Act with references to the appropriate  
7 successor agencies, subagencies, and officers established by this Act. The reviser shall  
8 base these actions on the functions assigned to the new entities by this Act and may  
9 consult with officers of the affected agencies, or their designees, to receive suggestions.

10          ➔Section 8. The General Assembly confirms Executive Order 2017-496, dated  
11 July 21, 2017, to the extent not otherwise confirmed or superseded by this Act, relating to  
12 the reorganization of the Kentucky Department of Education, which renames the Office  
13 of Internal Administration and Support the Office of Finance and Operations; renames the  
14 Office of Special Instructional Services the Office of Continuous Improvement and  
15 Support; abolishes the Bureau of Learning Results Services, the Bureau of Operations and  
16 Support Services, the Office of Leadership and School Improvement, and the Office of  
17 District Support Services; makes organizational changes in the renamed offices and in the  
18 Office of Education Technology, the Office of Legal, Legislative, and Communication  
19 Services, the Office of Assessment and Accountability, and the Office of Teaching and  
20 Learning; and establishes organizational structure in the Office of Career and Technical  
21 Education.