

## Summary of Enacted Legislation Affecting Education 2013 Regular Session of the Kentucky General Assembly

### Senate Bills:

**[SB 2](#)** (D. Thayer) is the “pension reform” legislation. This 244-page bill creates a Public Pension Oversight Board to oversee the Kentucky Retirement Systems (KRS), consisting of the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System. These provisions apply for new employees who begin on or after January 1, 2014. The Kentucky Teachers Retirement System (KTRS) is not included.

The new hybrid pension plan – known as a “cash balance plan” – contains elements of both a defined contribution plan and a defined benefit plan. The new plan will provide new hires with a guaranteed four percent return with *possible* additional benefits based on investment performance. Cost of living adjustments (COLA) are not eliminated, but must be pre-funded.

Participants in the Legislators’ Retirement Plan and the Judicial Retirement Plan, whose participation begins on or after January 1, 2014, will likewise participate in hybrid plans.

Four members will be added to the KRS board of trustees. One is to be appointed from a list of three submitted by the Kentucky League of Cities (KLC), one is to be appointed from a list of three submitted by the Kentucky Association of Counties (KACo), and one is to be appointed from a list of three submitted by the Kentucky School Boards Association (KSBA).

**[SB 8](#)** (M. Wilson) and **[HB 354](#)** (R. Henderson) are identical bills that address school safety. The bills require the adoption of an emergency plan by schools and to provide those plans and a diagram of each public school building to local first responders.

Emergency plans must be reviewed annually by school officials and first responders must be invited to participate in the review. Emergency response drills are to be conducted within the first 30 days of school. There must be one severe weather drill, one earthquake drill, and one lockdown drill within these thirty days. Additionally, a drop procedure, a safe area evacuation and a lockdown are to also be repeated during January. The bill removes notification of parents and guardians of lockdown procedures.

Local district superintendents must report to KDE by November 1 of each school year that their districts are in compliance. Local boards will be required to review crime prevention designs when constructing or renovating a school building.

KDE must develop protocols within the student information system for providing notice to schools receiving the records of prior offenses committed by a student transferring to a new school or district (without violating the federal Family Educational Rights and Privacy Act – FERPA). The bill also encourages chiefs of police and sheriffs to receive training on school and student safety issues.

**[\\*SB 18](#)** (J. Higdon) and **[HB 220](#)** (R. Smart) are almost identical bills that address the preschool funding formula. However, **[HB 220](#)** was signed into law last; therefore, its language prevails. The legislation requires an average of two student counts – December 1 and March 1 – rather than just a single count in December. It also eliminates the positive and negative adjustments for districts experiencing a five percent shift in enrollment.

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**SB 56** (C. Gibson) will require schools to retain for at least one week a master copy of any digital, video, or audio recordings of school activities without editing, altering, or destroying any portion of the recordings, although secondary copies of the master copy may be edited. The bill requires retention for at least one month of a master copy of any digital, video, or audio recordings of activities that include, or allegedly include, injury to students or school employees without editing, altering, or destroying any portion of the recordings.

**SB 59** (M. Wilson) transfers the Council on Postsecondary Education (CPE) from the Education and Workforce Development Cabinet to the Office of the Governor. It transfers authority to appoint the board of trustees of the Foundation for Adult Education from the secretary of the Education and Workforce Development Cabinet to the president of the Council on Postsecondary Education.

**SB 61** (M. Wilson) establishes an early high school graduation program beginning in the 2014-2015 school year. The Kentucky Board of Education (KBE) must promulgate regulations setting forth requirements for early graduation. The Council on Postsecondary Education (CPE) will establish the requisite ACT benchmark.

Students that complete the requirements will be awarded by the local district, a regular high school diploma and an Early Graduation Scholarship Certificate, which makes the student eligible for a scholarship award that may be used toward costs of the first year of enrollment at a Kentucky public two-year community and technical college or a Kentucky four-year public or non-profit, independent institution that is accredited by the Southern Association of Colleges and Schools (SACS).

The award amount is equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level in the Support Education Excellence in Kentucky (SEEK) fund for that student's last year of enrollment. The award is only available for the next academic year following early graduation.

Each public high school must report certificate recipients to the Kentucky Higher Education Assistance Authority (KHEAA) by July 1 of each year. KHEAA will also administer the newly created early graduation scholarship fund. Beginning with the 2015-2016 school year and each year thereafter, the General Assembly must annually allocate funds equal to one-half (1/2) of the state portion of the average statewide per pupil guaranteed base funding level for each student who graduated early the previous school year to KHEAA for deposit in the fund.

The other (1/2) of the state portion of the average statewide per pupil guaranteed base funding level for each student who graduated early will stay with the district.

Also, beginning with the 2013-2014 academic year, the early graduates will receive a Kentucky Educational Excellence Scholarship (KEES) award equivalent to completing high school in four years. The bill contains the formula to make this calculation.

**SB 64** (S. Humphries) includes the identical language and calculation found in **SB 61** for the Kentucky Educational Excellence Scholarship (KEES) calculation for early graduates.

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**SB 75** (M. Wilson) permits the commissioner of education to grant the equivalent of ten instructional days for school districts that have missed an average of 20 or more days in the previous three years and use alternative methods of instruction on days when the school district is closed for specific reasons. The bill requires the KBE to promulgate administrative regulations for calculating average daily attendance for instructional time granted.

**SB 83** (S. Humphries) and **HB 240** (Rep. Rollins) are almost identical bills. However, **HB 240** was signed into law last; therefore, its language prevails. The legislation creates the Office for Education and Workforce Statistics and the Board of the Kentucky Center for Education and Workforce Statistics. The legislation clarifies which public agencies shall contribute education and workforce data to the system and includes: KDE, CPE, Early Childhood Advisory Council, Education Professional Standards Board (EPSB), KHEAA, KY Commission on Proprietary Education and other agencies of the Education and Workforce Development Cabinet.

The legislation also establishes the Council for Educational Research to advise the Board of the Kentucky Center for Education and Workforce Statistics and the Office for Education and Workforce Statistics on the data needed by colleges of education for conducting education research. The deans of the colleges of education at each public research and comprehensive university will serve on the council or appoint a designee from the research faculty in the college of education.

**SB 95** (J. Higdon) extends the five-year tuition waiver eligibility period for adopted children who are students and were unable to enroll or complete an academic term due to serving on active duty in the Armed Forces; as an officer in the Commissioner Corps of the U.S. Public Health Service; or on active service in the Peace Corps or Americorps. The extension equals the total number of years the student was on active duty, and the number of months is rounded up to the next higher year.

**\*SB 97** (D. Givens) allows local school districts to adopt a policy to raise the compulsory school age attendance from 16 to 18, beginning with the 2015-2016 school year. The policy must apply to all students residing in the district, even if they attend school in another district under a non-resident contract. Local boards must certify to KDE that the district has programs and supports in place to meet the needs of the targeted student population. When 55 percent (96 of 174 districts) of all districts adopt a local policy, a statewide mandate is required four years after the threshold is met.

**SB 114** (C. Girdler) updates requirements for commercial driver's license (CDL) holders. All CDL holders with a school bus endorsement will now be required to submit to an annual physical examination.

**SB 120** (P. Clark) updates numerous statutes to define powers and duties of police officers at public institutions of postsecondary education and includes this group in a benefit award as a result of a death in the line of duty.

**SB 202** (J. Carpenter) addresses the Kentucky School Board Insurance Trust (KSBIT) situation. The bill authorizes a workers' compensation heterogeneous self-insured group to contract and to sue and be sued in the name adopted by the group. It also will allow certain governmental financing entities flexibility in financing any assessment by the self-insured group to cover an accrued deficit and to require the intercept of payments due to that governmental entity if it fails to make a scheduled payment.

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### **Senate Resolutions:**

**SCR 35** (W. Westerfield) establishes a task force to study the Unified Juvenile Code. This is a continuation of a resolution from the 2012 Regular Session to allow the task force to continue to study issues related to status offenders, the use of community resources, alternatives to detention, and the feasibility of establishing an age of criminal responsibility. The task force recommendations are due by January 6, 2014.

**SR 147** (R. Stivers) confirms the reappointment of Michael Mark Wasicsko to the Education Professional Standards Board for a term expiring June 7, 2016.

**SR 148** (D. Seum) confirms the reappointment of Barbara Ann Boyd to the Education Professional Standards Board for a term expiring June 7, 2016.

**SR 149** (R. Stivers) confirms the reappointment of Sandy Sinclair-Curry to the Education Professional Standards Board for a term expiring September 18, 2016.

**SR 150** (R. Stivers) confirms the reappointment of Cassandra A. Webb to the Education Professional Standards Board for a term expiring September 18, 2016.

**SR 151** (K. Stine) confirms the reappointment of Ronald Anthony Strong to the Education Professional Standards Board for a term expiring September 18, 2016.

**SR 152** (R. Stivers) confirms the appointment of Michael H. Ross to the Education Professional Standards Board for the remainder of the unexpired term ending September 18, 2014.

**SR 156** (D. Seum) confirms the appointment of Thomas Kennedy Helm, III, to the Council on Postsecondary Education for a term expiring December 31, 2017.

**SR 157** (R. Stivers) confirms the appointment of Carolyn M. Ridley to the Council on Postsecondary Education for a term expiring December 31, 2017.

**SR 158** (E. Harris) confirms the appointment of Sherrill Brakmeier Zimmerman to the Council on Postsecondary Education for a term expiring December 31, 2013.

**SR 159** (C. McDaniel) confirms the appointment of Arnold Taylor to the Council on Postsecondary Education for a term expiring December 31, 2014.

**SR 167** (D. Thayer) confirms the appointment of Edward M. Bourne, Jr. to the Governor's Postsecondary Education Nominating Committee for a term expiring April 14, 2018.

**SR 168** (D. Seum) confirms the reappointment of Eugene Jeffrey Mosley to the Governor's Postsecondary Education Nominating Committee for a term expiring April 14, 2018.

**SR 169** (R. Stivers) confirms the gubernatorial appointment of Nawanna B. Privett to the Kentucky Board of Education representing the Fifth Supreme Court District for a term ending April 14, 2014.

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[SR 170](#) (C. McDaniel) confirms the gubernatorial appointment of Leo Calderon to the Kentucky Board of Education representing the members at-large for a term ending April 14, 2016.

[SR 171](#) (K. Stine) confirms the gubernatorial reappointment of Brigitte B. Ramsey to the Kentucky Board of Education representing members at-large for a term ending April 14, 2016.

[SR 172](#) (J. Denton) confirms the gubernatorial reappointment of David K. Karem to the Kentucky Board of Education representing members at-large for a term ending April 14, 2016.

### House Bills:

[HB 3](#) (S. Overly) relates to human trafficking and requires that a child who is suspected to be a human trafficking victim be treated as a case of dependency, neglect, or abuse. The Cabinet for Health and Family Services (CHFS) and the Department of Juvenile Justice (DJJ) at the Justice and Public Safety Cabinet will provide requirements for how to handle these cases. (Note: Schools are allowed under FERPA to provide education records when reporting dependency, neglect (which includes educational neglect), or abuse. The U.S. Department of Education confirms this in a 2004 Letter to New Mexico Public Education Department. As well, FERPA allows for the release of education records without parental consent when there is a subpoena issued and Court Designated Workers (CDWs) can issue subpoenas pursuant to KRS 605.030.)

[HB 7](#) (R. Rand) provides authorization for Agency bonds and debt service for multiple postsecondary education capital projects.

[HB 45](#) (C. Rollins) defines a comprehensive transition and postsecondary program and provides Kentucky Educational Excellence Scholarships (KEES) to students enrolled in a comprehensive transition and postsecondary program who: received an alternative high school diploma after June 30, 2012, **or** had an intellectual disability and attended a public high school after June 30, 2008; **and** enrolls in a comprehensive transition and postsecondary program in Kentucky for credit bearing or non-credit bearing courses. The KEES award is \$250 for enrollment in at least six hours in an academic term or \$125 for enrollment in less than six hours in an academic term. The student is considered a part-time student and eligible for a maximum of eight academic terms. The Kentucky Higher Education Assistance Authority (KHEAA) will promulgate regulations clarifying the process.

[HB 49](#) (M. Denham) defines disposable pay and allows the Kentucky Higher Education Student Loan Corporation (KHESLC) to establish an administrative garnishment process for the collection of defaulted educational loans. The legislation limits the garnishment amount to 10 percent of disposable pay and the garnishment process can begin no sooner than 180 days after failure to make payments.

[HB 54](#) (T. Thompson) incorporates language from multiple bills including [HB 254](#), which establishes the Board of Student Body Presidents to include the student body president of each four-year public university, the two student regents to be designated by the Board of Regents of the Kentucky Community and Technical College System (KCTCS), and one student body president representing the Association of Independent Kentucky Colleges and Universities.

The board is advisory to the legislative and executive branches regarding postsecondary education issues and concerns of students. The board will meet with the Council on Postsecondary Education

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(CPE) and the Advisory Conference of Presidents at least once a year. Also, the board will submit three nominees to the Governor for consideration in the appointment of a student member to the CPE.

This bill amends the Open Meetings Act (KRS 61.820 and 61.840) to ensure the suitability of the space requirements, seating capacity, and acoustics of the setting of public meetings.

The bill also adds language regarding the release of educational records as may be required in KRS Chapters 600 to 645. (Note: Schools are allowed under FERPA to provide education records when reporting dependency, neglect (which includes educational neglect), or abuse. The U.S. Department of Education confirms this in a 2004 Letter to New Mexico Public Education Department. As well, FERPA allows for the release of education records without parental consent when there is a subpoena issued and Court Designated Workers (CDWs) can issue subpoenas pursuant to KRS 605.030.)

**HB 69** (J. Tilley) defines a “safe child drop-off location” for the exchange of child custody ordered in a separation agreement, decree of divorce, custody ordered in a divorce, temporary custody order, or post-degree order. The provisions allow any public building owned by the Commonwealth (which includes school buildings) where access is limited and security measures, including metal detectors, are in place, to allow access to portions of the public building otherwise open to the public for use as a safe child drop-off location.

**HB 109** (J. Jenkins) requires licensure rather than certification for authorized practice by athletic trainers. The bill allows that any person certified by the Board of Medical Licensure by July 12, 2006, to automatically qualify for licensure without submitting an application or paying the fee.

**HB 172** (A. Wuchner) encourages schools to have epinephrine injectors for the 2013-2014 school year and subsequent years, to the extent the injectors are donated or funding is available. The bill specifies that clinical protocols for epinephrine auto-injectors are to be developed by the Kentucky Department of Public Health (DPH) in collaboration with local health departments or local clinical providers, and local schools and districts. DPH will also provide advice on clinical administration of epinephrine auto-injectors.

**\*HB 180** (C. Rollins) requires the KBE to establish a statewide system of evaluation for all certified personnel prior to the 2014-2015 school year. KBE will promulgate regulations to specify criteria for the statewide plan.

**HB 181** (C. Rollins) limits the coal-producing county pharmacy scholarship amount to 40 percent of the average of the first year of in-state tuition of pharmacy school tuition in the United States.

**HB 182** (C. Rollins) updates the statute that sets forth exceptions for nonresident pupils to be included in average daily attendance (ADA). The bill allows SEEK funding to be distributed for a nonresident pupil who attends a district in which a parent of the pupil is employed. All tuition fees required of a nonresident pupil may be waived for the pupil.

**HB 184** (C. Rollins) attaches the Early Childhood Advisory Council to the Office of the Governor.



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\*[HB 207](#) (W. Stone) confirms Executive Order 2012-737 and places the state's two career and technical education systems under KDE.

\*[HB 220](#) (R. Smart) and [SB 18](#) (J. Higdon) are almost identical bills that address the preschool funding formula. However, [HB 220](#) was signed into law last; therefore, its language prevails. The legislation requires an average of two student counts – December 1 and March 1 – rather than just a single count in December. It also eliminates the positive and negative adjustments for districts experiencing a 5 percent shift in enrollment.

[HB 240](#) (Rep. Rollins) and [SB 83](#) (S. Humphries) are almost identical bills. However, [HB 240](#) was signed into law last; therefore, its language prevails. The legislation creates the Office for Education and Workforce Statistics and the Board of the Kentucky Center for Education and Workforce Statistics. It clarifies which public agencies shall contribute education and workforce data to the system which includes: KDE, CPE, Early Childhood Advisory Council, EPSB, KHEAA, KY Commission on Proprietary Education and other agencies of the Education and Workforce Development Cabinet.

[HB 269](#) (C. Rollins) clarifies that the Kentucky Environmental Education Council will include the central office of the Kentucky Community and Technical College System (KCTCS) in the coordination of postsecondary education environmental activities.

[HB 279](#) (R. Damron) specifies that government shall not substantially burden a person's freedom of religion without showing, by clear and convincing evidence, a compelling governmental interest. A "burden" includes indirect burdens such as withholding benefits, assessing penalties, or an exclusion from programs or access to facilities.

[HB 290](#) (T. Burch) establishes an external child fatality and near fatality review panel. The bill was amended to require that any educational records released to the external child fatality and near fatality review panel be in compliance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. sec. 1232g and its implementing regulations.

[HB 354](#) (R. Henderson) and [SB 8](#) (M. Wilson) are identical bills that address school safety. The bills require the adoption of an emergency plan by schools and to provide those plans and a diagram of each public school building to local first responders. The plans must be reviewed annually by school officials and first responders must be invited to participate in the review. Emergency response drills are to be conducted within the first 30 days of school. There must be one severe weather drill, one earthquake drill, and one lockdown drill within these thirty days. Additionally, a drop procedure, a safe area evacuation and a lockdown are to also be repeated during January. The bill removes notification of parents and guardians of lockdown procedures.

[HB 440](#) (L. Clark) is the funding bill for the pension liability legislation found in [SB 2](#). The changes are expected to generate \$100 million in additional annual revenue dedicated to funding the changes to the pension fund outlined in [SB 2](#). The bill includes changes to the state tax code and anticipated increases to revenue based on federal revenue sources (through increased taxes and reduced federal spending).

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One additional item of note, the bill defines delinquent taxpayer, and “license”. “License” means any occupational or professional certification, license, registration, or certificate issued by a licensing agency that is required to engage in an occupation, profession, or trade (other than a license issued to an attorney). On its face, this language would apply to a teaching certificate. Under the provisions of the bill, any delinquent taxpayer that holds a license may have that license suspended or revoked with the only exclusion being the revocation of driving privileges.

### House Resolutions:

[HR 22](#) (M. Denham) encourages each Kentucky school to have a safety assessment performed every five years by the Kentucky Center for School Safety.

[HR 24](#) (C. Embry Jr.) encourage the Department of Education to include a course on United States history within social studies curriculum requirements.

[HR 25](#) (C. Embry Jr.) encourages the Department of Education to include a course on United States history within social studies curriculum requirements.

[HR 69](#) (R. Smart) promotes the benefits of green schools.

*\*[SB 18](#) / [HB 220](#) (preschool funding), [SB 97](#) (compulsory school attendance), [HB 180](#) (professional growth and effectiveness), and [HB 207](#) (career and technical education) are the bills implementing the KBE’s legislative agenda.*

Note: The Attorney General has opined ([OAG 13-005](#)) that legislation passed during the 2013 Regular Session of the General Assembly, *except for general appropriation measures and those containing emergency or delayed effective date provisions*, will become effective on June 25, 2013.