

2021 Regular Session of the Kentucky General Assembly

Final Enacted Legislation Related to Elementary and Secondary Education



**Designates legislation that was passed after the veto period, and has not been signed or vetoed as of March 30.*

***HB 113** (Rep. Jerry Miller) requires Teachers' Retirement System (TRS) disability payments to be offset by any retirement allowances from other state retirement systems. It also requires a break in service for a TRS retiree before returning to any position with their former employer, rather than only a TRS-covered position.

HB 133 (Rep. Kevin Bratcher) lowers the threshold for school board tax recall petitions to a maximum of 5,000 signatures from registered and qualified voters in the school district.

***HB 163** (Rep. Regina Huff) creates two new teaching certificates for current or former teachers who wish to re-enter the classroom and otherwise meet Education Professional Standards Board criteria:

- A 10-year emeritus certificate for retired teachers, or those within one year of retirement.
- A five-year exception certificate for those whose certification has lapsed.

***HB 178** (Rep. Steve Sheldon) codifies non-voting membership on the Kentucky Board of Education (KBE) for the Secretary of the Education and Workforce Development Cabinet, as well as a teacher and student. KBE must establish a process for selecting the teacher and student members.

- Future appointees in each of the two cohorts – Supreme Court district representatives, and state at-large representatives – will be required to be balanced between genders and the two major political parties. Proportional minority representation also would be required.

HB 208 (Rep. Regina Huff) gives legislative approval to most provisions of the Kentucky Board of Education's emergency regulations related to COVID-19, which will remain in effect for the rest of the 2020-2021 school year. In addition:

- Districts were required to return to in-person learning on at least a hybrid basis – meaning two days a week classroom instruction for each student – by March 29.
 - Students can request to remain virtual for the rest of the school year, but that request could be revoked at any time and they could return to the classroom.
- Districts can use 5 days for non-traditional instruction for the balance of the school year.
- Schools can use up to 30 minutes per day of instructional time for COVID-related activities such as hand-washing, sanitization, etc.

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- SEEK funding for the 2021-2022 school year will be based on average daily attendance from either the 2018-2019 or 2019-2020 school year, as selected by districts last spring.

HB 258 (Rep. C. Ed Massey) establishes a new benefit tier for Teachers' Retirement System members hired on or after Jan. 1, 2022.

- Non-university employees in this tier will contribute 14.75% of their salary, including 2% to a new defined-contribution portion.
- Most members would have a minimum retirement age of 57, with 30 years of service, to receive full benefits.

HB 331 (Rep. Scott Lewis) removes the ability of the Kentucky Board of Education to remove, suspend or discipline a local school board member.

***HB 382** (Rep. Richard Heath) includes \$140 million to fund full-day kindergarten for fiscal year 2021-2022. Because Support Education Excellence in Kentucky (SEEK) funding for fiscal year 2021-2022 will be based on average daily attendance from either 2018-2019 or 2019-2020 under HB 208, the kindergarten numbers for that year will be used as appropriate.

HB 405 (Rep. Ken Fleming) establishes a School Funding Task Force to review all aspects of K-12 funding. The task force would be composed of six legislators, three superintendents, three local school board members and the Commissioner or his designee.

- KDE also is mandated to report to the Legislative Research Commission and the task force with options on how to allow local funds to follow a nonresident student to a school district of enrollment from a school district of residence.
- The School Facilities Construction Commission is appropriated \$10 million to assist local districts in recovering from recent flooding.

***HB 556** (Rep. Danny Bentley) appropriates \$127 million from the Coronavirus Capital Projects Fund of the American Rescue Plan Act to the School Facilities Construction Commission (SFCC) for urgent needs school construction. It also sets criteria for the projects similar to that in previous budget bills.

- It also appropriates \$75 million from the General Fund to SFCC for local area vocational education centers (LAVECs) for renovations, up to \$10 million per center. The funds must be matched by local funds, and the centers must offer substance use disorder programs and job creation training to be eligible.

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HB 563 (Rep. Chad McCoy) has two major pieces aimed at giving students more education options:

- Beginning with the 2022-2023 school year, districts could adopt nonresident pupil policies that would allow state Support Education Excellence in Kentucky (SEEK) funding to follow the student regardless of any reciprocal agreements between the resident and nonresident district. These policies would be filed with the Kentucky Department of Education (KDE). Additionally, KDE is mandated to report to the Legislative Research Commission with options on how to allow local funds to follow a nonresident student to a school district of enrollment from a school district of residence. (This is duplicative language, also appearing in HB 405.)
- There also is a tax credit of up to \$1 million per taxpayer, \$25 million statewide, for contributions to an account-granting organization (AGO). These AGOs can then distribute these funds, after withholding 10% for administrative expenses, to education service providers. Students would qualify based on income, and among the allowable expenses are private school tuition if the student lives in a county with a population of more than 90,000.

SB 8 (Sen. Mike Wilson) prohibits the Cabinet for Health and Family Services from requiring immunization against a disease in an epidemic situation, if a child, guardian, emancipated minor or adult objects on the grounds of religion or conscientiously held beliefs. A health care provider also could provide a written opinion that the immunization could be harmful to the student's health as a reason for the exemption.

SB 101 (Sen. Jimmy Higdon) allows local school districts that host a state-operated area technical center (ATC) to assume management of the ATC.

- The district would have to assume management by the 2022-2023 school year at the latest, with a deadline of Dec. 31, 2021, to notify the Kentucky Department of Education.
- ATCs that serve multiple districts would be required to serve those districts through a memorandum of understanding.
- Funding would flow to the new locally operated center in the first year in same amount as the ATC currently receives. Thereafter, the center would receive 75% of the current amount.
 - The remaining 25% would be distributed to locally operated centers that do not currently receive state funding.
- Districts that received funding for their locally operated centers in fiscal year 2020-2021 would be statutorily included in the current funding pool, rather than through budget language.

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- Certified employees who currently enjoy merit protection would receive tenure in their local school district, while classified employees with merit status would be protected for at least five years.

SB 127 (Sen. Max Wise) encourages each school to keep two rescue inhalers for asthma in secure but accessible and unlocked locations.

SB 128 (Sen. Max Wise) creates the Supplemental School Year Program in the 2021-2022 school year.

- Students have until May 1 to choose whether they would like to use the supplemental year.
- Students who graduate this spring could take part in a temporary program.
- Districts have until June 1 to decide whether to use the program. If so, all students who requested the option shall be able to take advantage.
- Districts must submit their plan, and any waiver requests, to the Kentucky Board of Education by June 16.
- High school students who take part will have a fifth year of athletic eligibility, but the age limit of 19 will remain in place.

SB 129 (Sen. Max Wise) transfers the responsibility of the technical advisory panel on assessment and accountability from the Legislative Research Commission to the Kentucky Department of Education. Semiannual reports on the advice and recommendations of the panel must be submitted to the Legislative Research Commission's Office of Education Accountability.

SB 168 (Sen. Max Wise) codifies the current organizational structure of the Kentucky Department of Education (KDE) and the Education Professional Standards Board (EPSB). Under this reorganization, EPSB staff work for KDE, specifically in the Office of Educator Licensure and Effectiveness.

***SB 270** (Sen. Morgan McGarvey) will allow the Education Professional Standards Board to approve educator preparation programs in historically black colleges and universities (HBCUs) with either national or regional accreditation recognized by the U.S. Department of Education.