

# UNDERSTANDING AMENDMENT 2

This November, Kentucky voters will decide if the state's constitution should be altered to give legislators broad new authority to use public tax dollars to fund private schools and other nonpublic education providers. Many Kentuckians do not understand Amendment 2 or how its passage could impact their local public schools and communities. Here are some quick facts.



## How will Amendment 2 appear on the ballot and what does it actually mean?

In addition to candidates for public office, voters will see two constitutional amendment questions on their ballots, the second of which deals with education funding. There will be "yes" and "no" options from which to choose. Below is the question and the amendment.

*"To give parents choices in educational opportunities for their children, are you in favor of enabling the General Assembly to provide financial support for the education costs of students in kindergarten through 12th grade who are outside the system of common (public) schools by amending the Constitution of Kentucky as stated below?"*

*"The General Assembly may provide financial support for the education of students outside the system of common schools. The General Assembly may exercise this authority by law, Sections 59, 60, 171, 183, 184, 186, and 189 of this Constitution notwithstanding."*

### "enabling the General Assembly"

**Translation:** giving lawmakers broad new authority they previously didn't have.

### "financial support"

**Translation:** public tax dollars

### "outside the system of common schools"

**Translation:** private schools, religious schools, home schools and other nonpublic education providers not subject to the same oversight, accountability, rules, or transparency as public schools.

### "notwithstanding"

**Translation:** in exception to, despite, regardless of what's in the constitution



## Related legislation and legal decisions

**2017**

HB 520 legalizes charter schools in Kentucky but no agreement is reached on public funding mechanism.

**2018**

Due to bipartisan opposition, budget passes with no taxpayer funding mechanism for charter schools.

**2020**

Legislative supermajority once again fails to reach agreement on public funding mechanism for charter schools.

**2021**

HB 563 establishes "Education Opportunity Accounts" (EOAs) that can be used for private school tuition in some counties. Bill also removes some autonomy of districts to negotiate nonresident agreements, moving state towards an open enrollment model.

**2022**

EOA portion of HB 563 is struck down by Kentucky Supreme Court as unconstitutional.

**2022**

HB 9 creates taxpayer funding mechanism for charter schools.

**2023**

HB 9 is struck down by Franklin Circuit Court as unconstitutional and charters deemed outside "system of common schools."

**2024**

Swift passage of HB 2 puts Amendment 2 on the November ballot.

## 7 legal exceptions created if Amendment 2 passes

To allow public tax dollars to pay for private education, Amendment 2 proposes to create exceptions for seven different sections of Kentucky's constitution. Below is a summary of the sections for which Amendment 2 creates exceptions.

- 59** Prohibits the legislature from passing laws targeting specific area(s) of state
- 60** Prohibits legislature from indirect enactment of laws targeting area(s) of state
- 171** Requires that taxes can only be collected for public purposes
- 183** Legislature is responsible for establishing efficient system of public schools
- 184** Common school fund, prohibits taxation for funding of nonpublic schools
- 186** Education funding exclusively to be used to maintain state's public schools
- 189** Prohibits public education funds from being used for religious schools



## Key terms

If Amendment 2 passes, the legislature would be able to pass the following types of programs and fund them with public tax dollars.

Lawmakers could allow the use of taxpayer-funded **vouchers** for some families to pay for tuition, fees, etc. at private, religious and home school programs.

Legal in 14 states (28%) \*

**Education savings accounts** allow taxpayer funds to be deposited directly into accounts designed to help some families pay for private school tuition, fees, etc.

Legal in 18 states (36%) \*

**Scholarship tax credits** give donors tax credits for contributions to funds that cover tuition and other costs for some families to attend private and religious schools.

Legal in 20 states (40%) \*

\*according to EdChoice