AN ACT relating to education and declaring an emergency.

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

➔Section 1. (1) Notwithstanding the maximum of 10 student attendance days that can be granted by the commissioner of education under KRS 158.070(9), a school district that has a nontraditional instruction plan approved by the commissioner of education:

(a) May request approval for additional student attendance days under the nontraditional instruction plan for when the district is operating with in-person instruction, virtual instruction, or a hybrid plan that includes in-person or virtual instruction due to the COVID-19 public health emergency prior to March 29, 2021. The number of days shall be subject to approval of the commissioner of education;

(b) If a school district is offering in-person instruction for at least 80% of the instructional time consisting of a minimum of 40% in-person instructional time to all students from March 29, 2021, until the end of the 2020-2021 school year, the district shall be granted approval for additional student attendance days under the nontraditional instruction plan necessary to implement that schedule plus 5 additional student attendance days under the nontraditional instruction plan for when the district is operating with in-person instruction, virtual instruction, or a hybrid plan that includes in-person or virtual instruction; and

(c) If a school district is not offering in-person instruction for at least 80% of the instructional time consisting of a minimum of 40% in-person instructional time to all students from March 29, 2021, until the end of the 2020-2021 school year, the school district may not request approval for additional student attendance days under the nontraditional instruction plan due to the COVID-19 public health emergency.

(2) Notwithstanding any other statute or administrative regulation to the contrary, a school district seeking approval by the commissioner for a nontraditional instruction plan for the 2021-2022 school year must submit the plan within the district's

Comprehensive District Improvement Plan by May 1, 2021. The plan and number of days shall be subject to approval by the commissioner of education.

(3) Notwithstanding any other statute or regulation to the contrary, a local school district shall offer remote instruction to students for whom the district receives a written request from the parent or guardian due to the COVID-19 public health emergency. A parent or guardian shall have the option to revoke the request and return the student to in-person instruction as provided by the district at any time.

➔Section 2. (1) For school districts operating under an approved nontraditional instruction plan due to the COVID-19 public health emergency, districts shall measure daily student participation through the interactions between teachers and students learning through nontraditional instruction. Daily participation shall be a measure of student engagement in instruction and shall not include student performance.

(2) Daily participation for students learning under a nontraditional instruction plan may occur during the school day or at times outside of normal school hours. Daily participation shall include at least 1 of the following:

(a) One-on-one communication via video or telephone between the teacher and student or between the teacher, student, and student's parent;

(b) Group communication via video or telephone between the teacher and a class or between a teacher and smaller groups of students within a class;

(c) Student time logged into a learning management software system to complete assignments; or

(d) Submission of paper-based assignments for students in a non-digital, nontraditional setting.

(3) Student participation for each school day shall be recorded in the Kentucky Student Information System.

(4) School districts shall work with students and families to engage each student and promote school participation in accordance with KRS Chapter 159, applicable

administrative regulations, and local board policies, whether instruction is delivered in person or nontraditionally. Any student enrolled in a public school who fails to participate in school without valid excuse for three (3) or more days shall be considered truant pursuant to KRS 159.150.

(5) The department shall post the district participation rates to the department's website and provide a copy to the Legislative Research Commission within 15 days of the district report submission deadlines.

➔Section 3. Notwithstanding KRS 158.135 and 505 KAR 1:080, an extended school calendar shall not be required for any program serving the educational needs of state agency children. State agency children in a particular program shall receive the same minimum number of instructional hours provided to students generally by the applicable school district operating a particular state agency children program.

➔Section 4. (1) A local board of education may allow each person employed as a full-time or part-time employee in the public schools emergency days for leave related to the COVID-19 public health emergency as determined by the local school district. COVID-19 emergency leave granted under this section shall not result in a loss of salary to the employee or affect the employee's sick leave. COVID-19 emergency leave granted under this section is separate from and shall not include emergency days granted under KRS 161.152.

(2) Leave granted pursuant to this section shall be determined based on local school board action, resolution, or procedures enacted by the local school district. Such action, resolution, or procedures shall include but not be limited to:

(a) The number of emergency days authorized for use by employees;

(b) COVID-19-related reasons for authorization of such leave; and

(c) How leave is credited to and used by employees determined eligible by the local school board for emergency leave under this section.

(3) Leave granted pursuant to this section shall not accumulate or carry over to a

subsequent school year and shall not be transferrable to any other classification of paid leave established by KRS 161.154, KRS 161.155, or local school district policy.

➔Section 5. The Kentucky Department of Education is hereby directed to seek any waivers from any federal government agency that may be necessary to allow for school districts to be reimbursed under the federal Richard B. Russell National School Lunch Act for any meals and meal supplements that may be prepared and served by the district, including but not limited to waivers allowing service in non-congregate settings and reducing the mandatory wait times between serving meals, during any time that a district is closed to students in relation to the COVID-19 public health emergency. All school districts are encouraged to maximize opportunities that may be granted through any waivers regarding food service and the COVID-19 public health emergency to address food insecurity issues of students in the districts.

➔Section 6. Notwithstanding any other statute or regulation to the contrary, the Kentucky Board of Education may waive requirements of the statewide assessment and accountability system in accordance with any federal waiver regarding those requirements that the Kentucky Department of Education receives due to the COVID-19 public health emergency.

➔Section 7. The Kentucky Department of Education is hereby directed to seek and utilize any waivers from any federal government agency involving requirements of the Individuals with Disabilities Education Act, 20 U.S.C. secs. 1400 et seq. that may be necessary to allow flexibility needed for school districts due to the COVID-19 public health emergency.

➔Section 8. Notwithstanding KRS 156.557 and 704 KAR 3:370, a local board of education may revise the district's certified evaluation plan due to the COVID-19 public health emergency.

➔Section 9. Notwithstanding KRS 159.035, a principal may award the number of educational enhancement opportunity days needed by a graduating student to meet

military service or postsecondary education enrollment obligations that occur prior to the last day of school due to the COVID-19 public health emergency.

➔Section 10. Notwithstanding KRS 161.011, KRS 161.750, and KRS 161.760, or any other statute or administrative regulation to the contrary, written notices required to be provided to classified and certified school district employees regarding salary or nonrenewal of contracts may be delivered via regular mail or via email to the email address on record in the school district.

➔Section 11. (1) Notwithstanding any other statute or regulation to the contrary, for school years 2020-2021 and 2021-2022, the Kentucky Department of Education shall use the school district attendance data selected by the district pursuant to 2020 Senate Bill 177 for the purpose of determining Support Education Excellence in Kentucky funds and any other state funding based in whole or in part on average daily attendance for the district, except that a district shall receive an amount 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 under the provisions of KRS 158.142.

(2) Current year data shall be used for property assessments per KRS 160.470(5), district tax rates levied, equivalent tax rates based on tax levies, exceptional and limited English proficiency student counts, and state equalization.

(3) For school year 2021-2022, each school district shall report attendance as required by state statute and regulation.

➔Section 12. A school may count a maximum of 30 minutes as instructional time in the existing instructional day when used for COVID-19 related activities for in-person instruction including but not limited to cleaning, sanitizing, hand washing, taking of temperatures, and instructing students on the use of masks and social distancing. This thirty (30) minutes may be used in addition to the five (5) minutes of passing time between instructional periods to increase passing time, prior to the start of the first instructional period, or after the last instructional period.

➔Section 13. Whereas the Commonwealth of Kentucky continues to face unusual circumstances and challenges due to the COVID-19 public health crisis, which is having immediate and significant impacts on public schools, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law. The provisions of this Act shall be retroactive for, and applicable to, the 2020-2021 school year only, except as described in Section 1(2) and Section 11 of this Act.