

CHAPTER 101

(SB 107)

AN ACT relating to gubernatorial appointments and declaring an emergency.

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

➔Section 1. KRS 63.080 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section and otherwise provided by law, any person appointed by the Governor, either with or without the advice and consent of the Senate, may be removed from office by the Governor for any cause the Governor deems sufficient, by an order of the Governor entered in the executive journal removing the officer.
- (2)
 - (a) ***Except as provided in subsections (3) and (4) of this section***, members of the board of trustees of the University of Kentucky, the board of trustees of the University of Louisville, members of the board of regents respectively of Eastern Kentucky University, Western Kentucky University, Morehead State University, Kentucky State University, Northern Kentucky University, Murray State University, and the Kentucky Community and Technical College System ~~and members of the Kentucky Board of Education and the Council on Postsecondary Education~~ shall not be removed except for cause.
 - (b) ***Members of the Kentucky Board of Education and the Council on Postsecondary Education shall not be removed except for cause.***
 - (c) ***A member of a board of trustees or board of regents specified in paragraph (a) of this subsection may be removed for cause as follows:***
 1. ***The Governor or the board of trustees or board of regents, as applicable, shall notify, in writing, the member and the Council on Postsecondary Education that the member should be removed for cause and shall specify the conduct warranting removal;***
 2. ***The member shall have seven (7) days to voluntarily resign or to provide evidence to the Council on Postsecondary Education that the member's conduct does not warrant removal;***
 3. ***Within thirty (30) days after receipt of notice from the Governor or the board, the Council on Postsecondary Education shall review the written notice, investigate the member and the conduct alleged to support removal, and make a nonbinding recommendation, in writing, to the Governor as to whether the member should be removed, a copy of which shall also be provided to the Legislative Research Commission;***
 4. ***The Governor shall then make a determination, in writing, whether the member should be removed and shall notify the member, the applicable board, the Council on Postsecondary Education, and the Legislative Research Commission of the determination; and***
 5. ***If the Governor's determination is to remove the member, the Governor shall remove the member by executive order, and shall replace the member with a new appointment according to the applicable statutes for the board of trustees or board of regents.***
 - (d) ***For the purposes of this subsection, a member may be removed for cause for conduct including but not limited to malfeasance, misfeasance, incompetence, or gross neglect of duty.***
- (3) ***For a board specified in subsection (2)(a) of this section that is required by law to have proportional representation in its membership based on residence, political affiliation, gender, minority racial composition, or professional qualifications, the Governor or other appointing authority may remove any member of the board and replace him or her with another individual in order to bring the membership into compliance with the statutory proportional representation requirement for the board, provided that the Governor or other appointing authority shall:***
 - (a) ***Only exercise the removal authority granted in this subsection if appointment at the end of the next expiring term of a member, or at the end of the next expiring term of members if two (2) or more members' terms expire at the same time, cannot cure the deficiency in the proportional representation requirement;***

- (b) *Remove the fewest number of members necessary to bring the membership into compliance with the proportional representation requirement for the board;*
 - (c) *Identify the order in which the members were appointed to their current terms on the board and, beginning with the most recently appointed member who may be removed and replaced to bring the membership into compliance with the proportional representation requirement, remove the member or members according to the length of their tenure on the board, without taking into account any prior term of service on the board by the member;*
 - (d) *Provide any member proposed to be removed with the following:*
 - 1. *Written notice, at least seven (7) days prior to the member's removal from the board, stating the statutory proportional representation requirement that the member does not satisfy; and*
 - 2. *An opportunity during the seven (7) day notice period for the member to voluntarily resign or to provide evidence to the Governor or other appointing authority that the member does satisfy the proportional representation requirement or that another member on the board who also does not satisfy the requirement has a shorter tenure than the member proposed to be removed;*
 - (e) *Replace any removed member with only those individuals who will bring the board into compliance with the proportional representation requirement; and*
 - (f) *Appoint any new member in the same manner as provided by law for the member being removed and to fill the remainder of the removed member's unexpired term.*
- (4) *For a board of trustees or board of regents specified in subsection (2)(a) of this section, the Governor may remove for cause all appointed members of the board and replace the entire appointed membership as follows:*
- (a) *The Governor shall notify, in writing, the board and the Council on Postsecondary Education that the entire appointed membership of the board should be removed for cause and shall specify the conduct warranting removal;*
 - (b) *The board or its members shall have seven (7) days to voluntarily resign or to provide evidence to the Council on Postsecondary Education that the conduct of the board or of individual members does not warrant removal;*
 - (c) *Within thirty (30) days after receipt of notice from the Governor, the Council on Postsecondary Education shall review the written notice, investigate the board and the conduct alleged to support removal, and make a nonbinding recommendation, in writing, to the Governor as to whether the appointed board membership should be removed, a copy of which shall also be provided to the Legislative Research Commission;*
 - (d) *The Governor shall then make a determination, in writing, whether the entire appointed board membership should be removed and shall notify the members, the Council on Postsecondary Education, and the Legislative Research Commission of the determination; and*
 - (e) *If the Governor's determination is to remove the entire appointed membership of the board, the Governor shall remove the members by executive order, and shall replace the members with new appointments according to the applicable statutes for the board of trustees or board of regents.*

For the purposes of this subsection, the entire appointed membership of a board of trustees or board of regents may be removed for cause if the board is no longer functioning according to its statutory mandate as specified in the enabling statutes applicable to the board, or if the board membership's conduct as a whole constitutes malfeasance, misfeasance, incompetence, or gross neglect of duty, such that the conduct cannot be attributed to any single member or members.

➔Section 2. KRS 164.011 is amended to read as follows:

- (1) There is hereby created and established a Council on Postsecondary Education in Kentucky as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law, appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The council shall be composed of the commissioner of education, a faculty member, a student member, and thirteen (13) citizen members appointed by the Governor. The citizen members shall be confirmed by the Senate under KRS 11.160, and the commissioner of education shall

serve as a nonvoting ex officio member. Citizen council members shall be selected from a list of nominees provided to the Governor under the nominating process set forth in KRS 164.005. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the Senate at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.

- (2) By no later than thirty (30) days after May 30, 1997, the Governor's Postsecondary Education Nominating Committee shall submit nominations to the Governor as set forth in KRS 164.005. On making appointments to the council, the Governor shall assure broad geographical and political representation; assure equal representation of the two (2) sexes, inasmuch as possible; assure no less than proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration ***and the political affiliation of each appointee as of December 31 of the year preceding the date of his or her appointment***; and assure that appointments reflect the minority racial composition of the Commonwealth ***based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number. A particular political affiliation shall not be a prerequisite to appointment to the council generally; however, if any person is appointed to the council that does not represent either of the two (2) leading political parties of the Commonwealth, the proportional representation by political affiliation requirement shall be determined and satisfied based on the total number of members on the council less any members not affiliated with either of the two (2) leading political parties.*** In filling vacancies to the council, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex. No more than two (2) members of the council shall hold an undergraduate degree from any one (1) Kentucky university, and no more than three (3) voting members of the council shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment. However, change in residency after the date of appointment shall not affect the ability to serve.
- (3) One (1) member shall be a full-time faculty member employed at a state institution of postsecondary education. The faculty member shall be appointed to a four (4) year term by the Governor from a list of three (3) nominees selected and submitted by majority vote of the ten (10) faculty members who serve as faculty representatives of the boards of trustees and boards of regents of the nine (9) postsecondary education institutions.
- (4) One (1) member shall be enrolled as a full-time student at a state institution of postsecondary education and shall be selected annually in the following manner: not later than June 1 of each year the eight (8) student body presidents of the four (4) year state public institutions of higher education, the two (2) student members to the Kentucky Community and Technical College System, and one (1) student body president representing the members of the Association of Independent Kentucky Colleges and Universities shall elect by majority vote three (3) nominees to submit to the Governor. From this list of nominees, the Governor shall appoint a student member.
- (5) In filling any vacancies, the Governor shall ensure the continuing representation upon the council of the broad constituencies as set forth in subsection (2) of this section. Vacancies on the council shall be filled for the unexpired term in accordance with the procedures established for the original appointments.
- (6) Each citizen member shall serve a term of six (6) years ***unless removed by the Governor for cause***, except the initial appointments shall be as follows:
 - (a) Two (2) appointments shall expire December 31, 1997;
 - (b) Three (3) appointments shall expire December 31, 1998;
 - (c) Two (2) appointments shall expire December 31, 1999;
 - (d) Two (2) appointments shall expire December 31, 2000;
 - (e) Two (2) appointments shall expire December 31, 2001; and
 - (f) Two (2) appointments shall expire December 31, 2002.

- (7) Any person, other than the chief state school officer, holding either an elective or appointive state office or who is a member of the governing board of any state university in Kentucky, shall be ineligible for membership or appointment on the council during his term.
- (8) The members of the council shall elect the chair and the vice chair of the council from among the council's membership, and the chair and vice chair shall serve at the pleasure of the council. The vice chair shall serve as chair in the absence of the chair.
- (9) The council shall meet at least quarterly and at other times upon the call of the chair or a majority of the council.
- (10) A quorum shall be a majority of the appointive membership of the council.
- (11) A quorum shall be required to organize and conduct the business of the council, except that an affirmative vote of eight (8) or more appointive members of the entire council shall be required to dismiss from employment the president of the council, and to adopt or amend the state strategic postsecondary education agenda.
- (12) New appointees to the council shall not serve more than two (2) consecutive terms. ~~Appointees after May 30, 1997, who previously served on the Council of Higher Education may serve two (2) additional full consecutive terms.~~
- (13) New appointees to the council shall complete an orientation and education program set forth in KRS 164.020(25) to be eligible for appointment to a second term.

➔Section 3. KRS 164.020 is amended to read as follows:

The Council on Postsecondary Education in Kentucky shall:

- (1) Develop and implement the strategic agenda with the advice and counsel of the Strategic Committee on Postsecondary Education. The council shall provide for and direct the planning process and subsequent strategic implementation plans based on the strategic agenda as provided in KRS 164.0203;
- (2) Revise the strategic agenda and strategic implementation plan with the advice and counsel of the committee as set forth in KRS 164.004;
- (3) Develop a system of public accountability related to the strategic agenda by evaluating the performance and effectiveness of the state's postsecondary system. The council shall prepare a report in conjunction with the accountability reporting described in KRS 164.095, which shall be submitted to the committee, the Governor, and the General Assembly by December 1 annually. This report shall include a description of contributions by postsecondary institutions to the quality of elementary and secondary education in the Commonwealth;
- (4) Review, revise, and approve the missions of the state's universities and the Kentucky Community and Technical College System. The Council on Postsecondary Education shall have the final authority to determine the compliance of postsecondary institutions with their academic, service, and research missions;
- (5) Establish and ensure that all postsecondary institutions in Kentucky cooperatively provide for an integrated system of postsecondary education. The council shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions;
- (6) Engage in analyses and research to determine the overall needs of postsecondary education and adult education in the Commonwealth;
- (7) Develop plans that may be required by federal legislation. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in federal legislation. When federal legislation requires additional representation on any "single state agency," the Council on Postsecondary Education shall establish advisory groups necessary to satisfy federal legislative or regulatory guidelines;
- (8) Determine tuition and approve the minimum qualifications for admission to the state postsecondary educational system. In defining residency, the council shall classify a student as having Kentucky residency if the student met the residency requirements at the beginning of his or her last year in high school and enters a Kentucky postsecondary education institution within two (2) years of high school graduation. In determining the tuition for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and other factors the council may in its sole discretion deem pertinent;

- (9) Devise, establish, and periodically review and revise policies to be used in making recommendations to the Governor for consideration in developing recommendations to the General Assembly for appropriations to the universities, the Kentucky Community and Technical College System, and to support strategies for persons to maintain necessary levels of literacy throughout their lifetimes including but not limited to appropriations to the Kentucky Adult Education Program. The council has sole discretion, with advice of the Strategic Committee on Postsecondary Education and the executive officers of the postsecondary education system, to devise policies that provide for allocation of funds among the universities and the Kentucky Community and Technical College System;
- (10) Lead and provide staff support for the biennial budget process as provided under KRS Chapter 48, in cooperation with the committee;
- (11)
 - (a) Except as provided in paragraph (b) of this subsection, review and approve all capital construction projects covered by KRS 45.750(1)(f), including real property acquisitions, and regardless of the source of funding for projects or acquisitions. Approval of capital projects and real property acquisitions shall be on a basis consistent with the strategic agenda and the mission of the respective universities and the Kentucky Community and Technical College System.
 - (b) The organized groups that are establishing community college satellites as branches of existing community colleges in the counties of Laurel, Leslie, and Muhlenberg, and that have substantially obtained cash, pledges, real property, or other commitments to build the satellite at no cost to the Commonwealth, other than operating costs that shall be paid as part of the operating budget of the main community college of which the satellite is a branch, are authorized to begin construction of the satellite on or after January 1, 1998;
- (12) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties;
- (13) Ensure that the state postsecondary system does not unnecessarily duplicate services and programs provided by private postsecondary institutions and shall promote maximum cooperation between the state postsecondary system and private postsecondary institutions. Receive and consider an annual report prepared by the Association of Independent Kentucky Colleges and Universities stating the condition of independent institutions, listing opportunities for more collaboration between the state and independent institutions and other information as appropriate;
- (14) Establish course credit, transfer, and degree components as required in KRS 164.2951;
- (15) Define and approve the offering of all postsecondary education technical, associate, baccalaureate, graduate, and professional degree, certificate, or diploma programs in the public postsecondary education institutions. The council shall expedite wherever possible the approval of requests from the Kentucky Community and Technical College System board of regents relating to new certificate, diploma, technical, or associate degree programs of a vocational-technical and occupational nature. Without the consent of the General Assembly, the council shall not abolish or limit the total enrollment of the general program offered at any community college to meet the goal of reasonable access throughout the Commonwealth to a two (2) year course of general studies designed for transfer to a baccalaureate program. This does not restrict or limit the authority of the council, as set forth in this section, to eliminate or make changes in individual programs within that general program;
- (16) Eliminate, in its discretion, existing programs or make any changes in existing academic programs at the state's postsecondary educational institutions, taking into consideration these criteria:
 - (a) Consistency with the institution's mission and the strategic agenda;
 - (b) Alignment with the priorities in the strategic implementation plan for achieving the strategic agenda;
 - (c) Elimination of unnecessary duplication of programs within and among institutions; and
 - (d) Efforts to create cooperative programs with other institutions through traditional means, or by use of distance learning technology and electronic resources, to achieve effective and efficient program delivery;
- (17) Ensure the governing board and faculty of all postsecondary education institutions are committed to providing instruction free of discrimination against students who hold political views and opinions contrary to those of the governing board and faculty;

- (18) Review proposals and make recommendations to the Governor regarding the establishment of new public community colleges, technical institutions, and new four (4) year colleges;
- (19) Postpone the approval of any new program at a state postsecondary educational institution, unless the institution has met its equal educational opportunity goals, as established by the council. In accordance with administrative regulations promulgated by the council, those institutions not meeting the goals shall be able to obtain a temporary waiver, if the institution has made substantial progress toward meeting its equal educational opportunity goals;
- (20) Ensure the coordination, transferability, and connectivity of technology among postsecondary institutions in the Commonwealth including the development and implementation of a technology plan as a component of the strategic agenda;
- (21) Approve the teacher education programs in the public institutions that comply with standards established by the Education Professional Standards Board pursuant to KRS 161.028;
- (22) Constitute the representative agency of the Commonwealth in all matters of postsecondary education of a general and statewide nature which are not otherwise delegated to one (1) or more institutions of postsecondary learning. The responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment;
- (23) Maintain procedures for the approval of a designated receiver to provide for the maintenance of student records of the public institutions of higher education and the colleges as defined in KRS 164.945, and institutions operating pursuant to KRS 165A.310 which offer collegiate level courses for academic credit, which cease to operate. Procedures shall include assurances that, upon proper request, subject to federal and state laws and regulations, copies of student records shall be made available within a reasonable length of time for a minimum fee;
- (24) Monitor and transmit a report on compliance with KRS 164.351 to the director of the Legislative Research Commission for distribution to the Health and Welfare Committee;
- (25) (a) Develop in cooperation with each public university and the Kentucky Community and Technical College System a comprehensive orientation and education program for new members of the council and the governing boards and continuing education opportunities for all council and board members. For new members of the council and institutional governing boards, the council shall:
 1. Ensure that the orientation and education program comprises six (6) hours of instruction time and includes but is not limited to information concerning the roles of the council and governing board members, the strategic agenda and the strategic implementation plan, and the respective institution's mission, budget and finances, strategic plans and priorities, institutional policies and procedures, board fiduciary responsibilities, legal considerations including open records and open meetings requirements, ~~and~~ ethical considerations arising from board membership, **and the board member removal and replacement provisions of Section 1 of this Act**;
 2. Establish delivery methods by which the orientation and education program can be completed in person or electronically by new members within one (1) year of their appointment or election;
 3. Provide an annual report to the Governor and Legislative Research Commission of those new board members who do not complete the required orientation and education program; and
 4. Invite governing board members of private colleges and universities licensed by the Council on Postsecondary Education to participate in the orientation and education program described in this subsection;
- (b) Offer, in cooperation with the public universities and the Kentucky Community and Technical College System, continuing education opportunities for all council and governing board members; and
- (c) Review and approve the orientation programs of each public university and the Kentucky Community and Technical College System for their governing board members to ensure that all programs and information adhere to this subsection;
- (26) Develop a financial reporting procedure to be used by all state postsecondary education institutions to ensure uniformity of financial information available to state agencies and the public;
- (27) Select and appoint a president of the council under KRS 164.013;

- (28) Employ consultants and other persons and employees as may be required for the council's operations, functions, and responsibilities;
- (29) Promulgate administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as described in this section;
- (30) Prepare and present by January 31 of each year an annual status report on postsecondary education in the Commonwealth to the Governor, the Strategic Committee on Postsecondary Education, and the Legislative Research Commission;
- (31) Consider the role, function, and capacity of independent institutions of postsecondary education in developing policies to meet the immediate and future needs of the state. When it is found that independent institutions can meet state needs effectively, state resources may be used to contract with or otherwise assist independent institutions in meeting these needs;
- (32) Create advisory groups representing the presidents, faculty, nonteaching staff, and students of the public postsecondary education system and the independent colleges and universities;
- (33) Develop a statewide policy to promote employee and faculty development in all postsecondary institutions and in state and locally operated secondary area technology centers through the waiver of tuition for college credit coursework in the public postsecondary education system. Any regular full-time employee of a postsecondary public institution or a state or locally operated secondary area technology center may, with prior administrative approval of the course offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution. The institution shall waive the tuition up to a maximum of six (6) credit hours per term;
- (34) Establish a statewide mission for adult education and develop a twenty (20) year strategy, in partnership with the Kentucky Adult Education Program, under the provisions of KRS 164.0203 for raising the knowledge and skills of the state's adult population. The council shall:
 - (a) Promote coordination of programs and responsibilities linked to the issue of adult education with the Kentucky Adult Education Program and with other agencies and institutions;
 - (b) Facilitate the development of strategies to increase the knowledge and skills of adults in all counties by promoting the efficient and effective coordination of all available education and training resources;
 - (c) Lead a statewide public information and marketing campaign to convey the critical nature of Kentucky's adult literacy challenge and to reach adults and employers with practical information about available education and training opportunities;
 - (d) Establish standards for adult literacy and monitor progress in achieving the state's adult literacy goals, including existing standards that may have been developed to meet requirements of federal law in conjunction with the Collaborative Center for Literacy Development: Early Childhood through Adulthood; and
 - (e) Administer the adult education and literacy initiative fund created under KRS 164.041;
- (35) Participate with the Kentucky Department of Education, the Kentucky Board of Education, and postsecondary education institutions to ensure that academic content requirements for successful entry into postsecondary education programs are aligned with high school content standards and that students who master the high school academic content standards shall not need remedial courses. The council shall monitor the results on an ongoing basis;
- (36) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(j);
- (37) Cooperate with the Office for Education and Workforce Statistics and ensure the participation of the public institutions as required in KRS 151B.133;~~and~~
- (38) ***Pursuant to Section 1 of this Act, review written notices from the Governor or from a board of trustees or board of regents concerning removal of a board member or the entire appointed membership of a board, investigate the member or board and the conduct alleged to support removal, and make written recommendations to the Governor and the Legislative Research Commission as to whether the member or board should be removed; and***

- (39) Exercise any other powers, duties, and responsibilities necessary to carry out the purposes of this chapter. Nothing in this chapter shall be construed to grant the Council on Postsecondary Education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

➔Section 4. KRS 164.131 is amended to read as follows:

- (1) (a) The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.
- (b) All appointed and elected persons shall be required to attend and complete an orientation and education program prescribed by the council under KRS 164.020(25), as a condition of their service and eligibility for appointment or election to a second term.
- (c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- (d) Board members may be removed by the Governor *under the following circumstances*:
1. For cause, *pursuant to subsection (2) of Section 1 of this Act*~~{which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council}; or~~
 2. *Pursuant to subsections (3) or (4) of Section 1 of this Act.*
- (e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the University of Kentucky nonteaching personnel, and one (1) member of the student body of the University of Kentucky. *The members appointed by the Governor shall be subject to confirmation by the Senate.* The voting members of the board shall select a chairperson annually.
- (2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified, *unless a member is removed by the Governor pursuant to subsection (2), (3), or (4) of Section 1 of this Act*; except the initial appointments shall be as follows:
1. Two (2) members shall serve one (1) year terms;
 2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
 3. Three (3) members shall serve three (3) year terms;
 4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
 5. Three (3) members shall serve five (5) year terms; and
 6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.
- (b)
 1. Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth;
 2. Three (3) shall be representative of agricultural interests; and
 3. Ten (10) shall be other distinguished citizens representative of the learned professions and may include one (1) who resides outside of Kentucky.
- (c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration *and the political affiliation of each appointee as of December 31 of the year preceding the date of his or her appointment*, and to reflect no less than proportional representation of the minority racial composition of the Commonwealth *based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number. A particular political affiliation shall not be a prerequisite to appointment to the*

board generally; however, if any person is appointed to the board that does not represent either of the two (2) leading political parties of the Commonwealth, the proportional representation by political affiliation requirement shall be determined and satisfied based on the total number of members on the board less any members not affiliated with either of the two (2) leading political parties.

- (d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.
- (3) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.
- (4) The nonteaching personnel member shall be any full-time staff member, excluding the president, vice-presidents, academic deans, and academic department chairpersons. The staff member shall represent all nonteaching university employees including but not limited to building facilities and clerical personnel. The staff member shall be elected by secret ballot by the nonteaching employees. The staff member shall serve a term of three (3) years and until a successor is elected and qualified. The staff member shall be eligible for reelection, but a staff member who ceases being an employee of the university shall not be eligible to continue to serve as a member of the board. Elections to fill vacancies shall be for the unexpired term and shall be held in the same manner as provided for the original election.
- (5) The student member shall ***serve a one (1) year term beginning on July 1 after being elected and sworn in as student body president and ending on the following June 30*** ~~be the president of the student body of the university during the appropriate academic year and may be an out of state resident if applicable~~. If the student member does not maintain ~~the~~^{his} position ~~of~~^{as} student body president or ~~the~~^{his} status ~~of~~^{as} a full-time student at any time during that academic year, a special election shall be held to select a full-time student ***member***. The ***elected*** student member shall serve for ***the remainder of the unexpired term*** ~~a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year~~.
- (6) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).
- (7) Unless specifically approved by the board of trustees under the provisions of KRS 164.367, no member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the two (2) faculty members, and the one (1) nonteaching personnel member.
- (8) New appointees of the board shall not serve more than two (2) consecutive terms. ~~Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.~~
- (9) ***The inability of the board to hold regular meetings, to elect a chairperson annually, to establish a quorum, to adopt an annual budget, to set tuition rates, to conduct an annual evaluation of the president of the university, or to carry out its primary function to periodically evaluate the institution's progress in implementing its mission, goals, and objectives to conform to the strategic agenda shall be cause for the Governor to remove all appointed members of the board and replace the entire appointed membership pursuant to subsection (4) of Section 1 of this Act.***

➔Section 5. KRS 164.180 is amended to read as follows:

- (1) The board of trustees may elect a vice chairman and such other officers as it deems wise, and ~~shall~~^{may} ~~adopt~~^{make} such bylaws, rules and regulations consistent with this chapter as it deems proper.
- (2) ***The bylaws, rules or regulations adopted by the board pursuant to subsection (1) of this section shall reference the member removal and replacement provisions of Section 1 of this Act.***

➔Section 6. KRS 164.321 is amended to read as follows:

- (1) Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Kentucky State University, Northern Kentucky University, and the Kentucky Community and

Technical College System shall each be governed by a board of regents appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.

- (a) Each board of the comprehensive universities shall consist of eight (8) members appointed by the Governor, one (1) member of the teaching faculty, one (1) member of the university nonteaching personnel, and one (1) member of the student body of the respective university or college. ***The members appointed by the Governor shall be subject to confirmation by the Senate.*** The members of the board shall select a chairperson annually.
- (b) The board of the Kentucky Community and Technical College System shall consist of eight (8) members appointed by the Governor, two (2) members of the teaching faculty, two (2) members of the nonteaching personnel, and two (2) members of the student body. ***The members appointed by the Governor shall be subject to confirmation by the Senate.***
 1. No more than three (3) appointed members of the board shall reside in any one (1) judicial district of the Kentucky Supreme Court as of the date of the appointment.
 2. A change in residency of a gubernatorial appointee after the date of appointment shall not affect the appointee's ability to serve or eligibility for reappointment, except an appointee who assumes residency outside the fifty (50) United States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.
 3. In making initial appointments, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.
- (2) The terms of appointed members shall be for six (6) years and until their successors are appointed and qualified, ***unless a member is removed by the Governor pursuant to subsection (2), (3), or (4) of Section 1 of this Act,*** except the initial appointments to the board of regents for the Kentucky Community and Technical College System shall be as follows:
 - (a) One (1) member shall serve a one (1) year term;
 - (b) One (1) member shall serve a two (2) year term;
 - (c) Two (2) members shall serve three (3) year terms;
 - (d) One (1) member shall serve a four (4) year term;
 - (e) One (1) member shall serve a five (5) year term; and
 - (f) Two (2) members shall serve six (6) year terms.

New appointees of a board of regents shall not serve for more than two (2) consecutive terms. ~~Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.~~

- (3) The gubernatorial appointments may include one (1) graduate of the respective institution who resides outside the Commonwealth. Not more than two (2) appointed members of any board shall be residents of one (1) county. The appointments shall reflect the proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration ***and the political affiliation of each appointee as of December 31 of the year preceding the date of his or her appointment. A particular political affiliation shall not be a prerequisite to appointment to any board generally; however, if any person is appointed to a board that does not represent either of the two (2) leading political parties of the Commonwealth, the proportional representation by political affiliation requirement shall be determined and satisfied based on the total number of members on the board less any members not affiliated with either of the two (2) leading political parties.*** Membership on the board shall reflect no less than proportional representation of the minority racial composition of the Commonwealth ***based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number.*** Membership on the board shall not be incompatible with any state office. A change in residency after the date of appointment shall not affect a member's ability to serve nor shall it prevent a member's eligibility for reappointment, except a member who assumes residency outside the fifty (50) United

States shall become immediately ineligible to serve. The Council on Postsecondary Education shall notify the appointee of his or her ineligibility to serve.

- (4) Appointments to fill vacancies shall be made in the same manner and within the same time after the occurrence of the vacancy as regular appointments. The person appointed shall hold the position for the unexpired term only.
- (5) Each member of the board shall serve for the term for which the member is appointed and until a successor is appointed and qualified, ***unless a member is removed by the Governor pursuant to subsection (2), (3), or (4) of Section 1 of this Act.***
- (6)
 - (a) The faculty member of a comprehensive university shall be a teaching or research member of the faculty of his or her respective university of the rank of assistant professor or above. The faculty member shall be elected by secret ballot by all faculty members of his or her university of the rank of instructor, assistant professor, or above. The faculty member shall serve for a term of three (3) years and until his successor is elected and qualified. The faculty member shall be eligible for reelection, but he or she shall not be eligible to continue to serve as a member of the board if he or she ceases being a member of the teaching staff of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
 - (b) The faculty members of the Kentucky Community and Technical College System shall be represented by one (1) faculty member elected from the community colleges and one (1) faculty member elected from the technical institutions to serve three (3) year terms and until their successors are named. The faculty representative of each branch shall be elected by means of a process established by the board. The faculty members may be reelected but shall not serve more than two (2) consecutive terms. A faculty member shall be ineligible to continue to serve as a member of the board if he or she ceases to be a member of the faculty at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (7)
 - (a) The nonteaching personnel member in a comprehensive university shall be any full-time staff member excluding the president, vice presidents, academic deans, and academic department chairpersons. He or she shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. The member shall be elected by secret ballot by the nonteaching employees. The nonteaching personnel member shall serve a term of three (3) years and until a successor is elected and qualified. The nonteaching personnel member shall be eligible for reelection, but he or she shall not be eligible to continue to serve as a member of the board if he or she ceases being an employee of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
 - (b) The nonteaching personnel members in the Kentucky Community and Technical College System shall be any full-time staff member excluding a president, chancellor, vice president, academic dean, academic department chair, or other administrator. They shall represent all nonteaching employees in their respective branch institutions including, but not limited to, support and clerical personnel. One (1) member shall be a representative from the community colleges and one (1) member shall be a representative from the technical institutions. They shall serve three (3) year terms and until their successors are named. These two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member. The nonteaching personnel members of each branch shall be elected by means of a process established by the board. A nonteaching personnel member may be reelected but shall not serve more than two (2) consecutive terms. A nonteaching employee shall be ineligible to continue to serve as a member of the board if that employee ceases to be a nonteaching employee at one (1) of the institutions within the system. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for the original election.
- (8)
 - (a) The student member on a comprehensive university board shall ***serve a one (1) year term beginning on July 1 after being elected and sworn in as student body president and ending on the following June 30***~~be the president of the student body of the university during the appropriate academic year and may be an out of state resident if applicable~~. If the student member does not maintain ~~the~~***the***~~[his or her]~~ position as student body president or ***the*** status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The ***elected*** student member

shall serve for *the remainder of the unexpired term*~~[a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year].~~

- (b) Two (2) full-time student members shall be elected to the board of regents for the Kentucky Community and Technical College System. One (1) shall represent students of the community colleges and one (1) shall represent the technical institutions. The student members shall be elected by means of a process established by the board. The student members shall serve one (1) year terms *beginning on July 1 after being elected and sworn in as a student member of the board and ending on the following June 30*~~[beginning with the first meeting of the fiscal year that contains the academic year].~~ If the student member does not maintain *the*~~[his or her]~~ status as a full-time student, a special election shall be held to fill the vacancy *for the remainder of the unexpired term*. The two (2) members shall collectively have one (1) vote which may be cast one-half (1/2) vote by each member.
- (9) All appointed and elected persons shall be required to attend and complete an orientation and education program prescribed by the council under KRS 164.020(25), as a condition of their service and eligibility for appointment or election to a second term.
- (10) Board members may be removed by the Governor *under the following circumstances:*
- (a) For cause, *pursuant to subsection (2) of Section 1 of this Act*~~[which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council]; or~~
- (b) *Pursuant to subsections (3) or (4) of Section 1 of this Act.*
- (11) *The inability of the board or boards of the comprehensive universities or Kentucky Community and Technical College System to hold quarterly meetings, to elect a chairperson annually, to establish a quorum, to adopt an annual budget, to set tuition rates, to conduct an annual evaluation of the president of the university or system, to carry out its primary function to periodically evaluate the university's or system's progress in implementing its mission, goals, and objectives to conform to the strategic agenda, or to otherwise perform its duties under Section 7 of this Act shall be cause for the Governor to remove all appointed members of the board or boards and replace the entire appointed membership pursuant to subsection (4) of Section 1 of this Act.*

➔Section 7. KRS 164.350 is amended to read as follows:

- (1) The government of each of the state universities and the Kentucky Community and Technical College System is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:
- (a) Receive grants of money and expend the same for the use and benefit of the university or college;
- (b) ~~{Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;~~
- ~~(c) —~~Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;
- ~~(c){(d)}~~ Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and
- ~~(d){(e)}~~ Grant diplomas and confer degrees upon the recommendation of the president and faculty.
- (2) *Each board shall adopt bylaws, rules, and regulations for the governance of its members, officers, agents, and employees, which shall reference the member removal and replacement provisions of Section 1 of this Act, and the board shall enforce obedience to such bylaws, rules, and regulations.*
- (3) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- ~~(4){(3)}~~ In addition to the duties required in subsections (1),~~[and]~~ (2), *and* (3) of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:

- (a) Develop and implement guidelines for the preparation of biennial budget requests by the administrators of the colleges within the system. The guidelines shall define the processes for review and approval by the boards of directors for the colleges;
- (b) Adopt a biennial budget request for the Kentucky Community and Technical College System upon the recommendation of the president of the system;
- (c) Adopt an allocation process for distributing funds to the colleges within the system;
- (d) Consider recommendations from the boards of directors of the colleges to improve the overall budget planning and allocation processes;
- (e) Designate each college with a name;
- (f) Encourage and accept donations of land and funds to be used in the acquisition, construction, or operations of colleges in the system. The board may commemorate donations from private persons or corporations with suitable memorials; and
- (g) Accept federal grants when deemed appropriate to be used in the acquisition, construction, or operations of colleges in the system.

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted strategic agenda and biennial budget and with the missions of the institutions within the system.

➔Section 8. KRS 164.821 is amended to read as follows:

- (1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of **ten (10)**~~seventeen (17)~~ members appointed by the Governor, **at least one (1) of whom shall be a graduate of the university**; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; **one (1)**~~a~~ member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and **one (1)**~~a~~ student member who shall be the president of the student body during the appropriate academic year. **The members appointed by the Governor shall be subject to confirmation by the Senate.**
 - (a) All appointed and elected persons shall be required to attend and complete an orientation and education program prescribed by the council under KRS 164.020(25), as a condition of their service and eligibility for appointment or election to a second term.
 - (b) Board members may be removed by the Governor **under the following circumstances:**
 - 1. For cause, **pursuant to subsection (2) of Section 1 of this Act**~~which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council~~; **or**
 - 2. **Pursuant to subsections (3) or (4) of Section 1 of this Act.**
 - (c) New appointees to the board shall not serve more than two (2) consecutive terms.~~Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.~~
- (2) **The student member shall serve a one (1) year term beginning on July 1 after being elected and sworn in as student body president and ending on the following June 30.** If the student member does not maintain ~~the~~~~his~~ position ~~of~~~~as~~ student body president or ~~the~~~~his~~ status ~~of~~~~as~~ a full-time student at any time during that academic year, a special election shall be held to select a full-time student member. The **elected** student member shall serve for **the remainder of the unexpired term**~~a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year~~.
- (3) The faculty member ~~and~~~~,~~ staff member~~,~~ and student body member~~,~~ shall **serve one (1) year terms and** cease to be eligible for membership on the board of trustees upon termination of their respective relationships with, **or leadership positions within**, the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner.~~The voting members of the board shall select a chairperson annually.~~

- (4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, ***unless a member is removed by the Governor pursuant to subsection (2), (3), or (4) of Section 1 of this Act***, except the initial terms shall be as follows:
- (a) Two (2) members shall serve one (1) year terms;
 - (b) ***Two (2)***~~Three (3)~~ members shall serve two (2) year terms;
 - (c) ***Two (2)***~~Three (3)~~ members shall serve three (3) year terms~~[, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees];~~
 - (d) ***Two (2)***~~Three (3)~~ members shall serve four (4) year terms;
 - (e) ***One (1) member***~~Three (3) members~~ shall serve a five (5) year ***term***~~terms~~; and
 - (f) ***One (1) member***~~Three (3) members~~ shall serve a six (6) year ***term***~~terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection~~.
- (5) The Governor shall make his at-large appointments so as to divide the ***appointed***~~citizen~~ representation upon the board to reflect:
- (a) ***The*** proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration ***and the political affiliation of each appointee as of December 31 of the year preceding the date of his or her appointment. A particular political affiliation shall not be a prerequisite to appointment to the board generally; however, if any person is appointed to the board that does not represent either of the two (2) leading political parties of the Commonwealth, the proportional representation by political affiliation requirement shall be determined and satisfied based on the total number of members on the board less any members not affiliated with either of the two (2) leading political parties; and***
 - (b) ~~[shall reflect]~~No less than ***the*** proportional representation of the minority racial composition of the Commonwealth ***based on the total minority racial population using the most recent census or estimate data from the United States Census Bureau. If the determination of proportional minority representation does not result in a whole number of minority members, it shall be rounded up to the next whole number.***~~[The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.]~~
- (6) Vacancies among the ***appointed***~~citizen~~ members of the board occurring by death, resignation, or any other cause, ***other than expiration of a term***, shall be filled by appointments made by the Governor for the ***remainder***~~expiration~~ of the ***unexpired*** term, subject to the qualifications set forth in this section.
- (7) Unless specifically approved by the board of trustees under the provisions of KRS 164.367, no member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff, and student members.
- (8) ***The inability of the board to hold regular meetings, to elect a chairperson annually, to establish a quorum, to adopt an annual budget, to set tuition rates, to conduct an annual evaluation of the president of the university, to carry out its primary function to periodically evaluate the institution's progress in implementing its mission, goals, and objectives to conform to the strategic agenda, or to otherwise perform its duties under Section 9 of this Act shall be cause for the Governor to remove all appointed members of the board and replace the entire appointed membership pursuant to subsection (4) of Section 1 of this Act.***
- ➔Section 9. KRS 164.830 is amended to read as follows:
- (1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. ***A majority of the voting members of the board shall constitute a quorum for the transaction of business.*** Powers of the board shall include the following:
 - (a) Appointment of a president, all faculty members, and other personnel and determination of the compensation, duties, and official relations of each. No relative of a board of trustee member shall be employed by the university.

- (b) Suspension or removal of the president, officers, faculty, agents, or other personnel that it is authorized to appoint, except that no president, professor, or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty, or for immoral conduct and that the removal shall be made in accordance with procedures established by law for state institutions.
 - (c) Election of a *chairperson, a vice chairperson to act in the absence or temporary disability of the chairperson*, and any other officers as it deems wise, including the annual election of a six (6) member executive committee which shall have the powers that the board delegates to it and shall operate under the rules the board shall establish under its authority to make bylaws, rules, and regulations consistent with this chapter. The committee shall have one (1) member representing the students, faculty, and nonteaching personnel with the group alternating each year. The initial appointment to the executive committee after *the effective date of this Act* ~~[May 30, 1997]~~, shall be a faculty member, to be followed by a student and a nonteaching personnel, respectively.
 - (d) Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.
 - (e) Requirement of reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time.
 - (f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.
 - (g) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
 - (h) *The board shall adopt bylaws, rules, and regulations for the governance of its members, officers, agents, and employees, which shall reference the member removal and replacement provisions of Section 1 of this Act, and the board shall enforce obedience to those bylaws, rules, and regulations.*
- (2) *Board members shall receive no compensation for serving on the board, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with the reimbursement policy for state employees. Board members who reside outside the Commonwealth shall not be reimbursed for out-of-state travel expenses.*
- (3) The provisions of KRS 164.030, 164.200, and 164.410, shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

➔Section 10. The General Assembly finds and declares that one or more of the boards specified in Section 1 of this Act has a current membership that is not in compliance with statutory proportional representation requirements, or that one or more of the boards has a history of appointments being made that do not meet those statutory requirements. Additionally, the General Assembly finds and declares that one or more of the boards specified in Section 1 of this Act has a current membership that is no longer functioning according to its statutory mandate, or that one or more of the boards has a history of failing to function according to its statutory mandate. Therefore, the General Assembly further finds and declares that the Governor or other appointing authority shall have the power to remove certain members of a board and replace those members with new appointees, consistent with and as specified in Sections 1 to 9 of this Act.

➔Section 11. Because the membership of certain boards may not currently be in compliance with the proportional representation requirements provided by law, 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.

Signed by Governor March 21, 2017.