

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2024 REGULAR SESSION
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Amend printed copy of **SB 191/GA**

On page 1, line 15, after "model" insert "*but does not mean that a differential weight be applied for research and comprehensive universities*"; and

On page 2, line 15, bracket and strikethrough "and"; and

On page 2, after line 15, insert the following:

"(o) "Underrepresented students" means Kentucky students who meet at least one (1) of the following criteria:

- 1. Students with a physical or mental impairment that substantially limits one (1) or more major life activities, as defined by the Americans with Disabilities Act of 1990, 42 U.S.C. sec. 12101 et seq.;*
- 2. Students who have been or are currently homeless, as defined by the McKinney-Vento Homeless Assistance Act, 42 U.S.C. sec. 11302 et seq.;*
- 3. Students who have been or are currently in a foster care system;*
- 4. Students who qualified for the free or reduced-price school meals through the federal free and reduced-price lunch program for two (2) or more years;*
- 5. Students who have been awarded a federal Pell Grant;*
- 6. Students who have received support from the Special Supplemental Nutrition Program for Women, Infants and Children as a parent or child;*
- 7. Students who do not have a parent or guardian who has completed a*

Amendment No. HFA 2

Rep. Rep. Josh Calloway

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRD Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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bachelor's degree;

- 8. Students who have spent at least one (1) year residing in a geographic area designated as rural by the Federal Office of Rural Health Policy; or**
- 9. Students who are approved for education assistance funding and protected by Servicemen's Readjustment Act of 1944, as amended; and"**; and

On page 2, line 16, delete "(o)" and insert in lieu thereof "(p)"; and

On page 3, line 6, bracket and strikethrough "minority"; and

On page 4, line 24, bracket and strikethrough "minority"; and

On page 6, line 20, bracket and strikethrough "minority"; and

On page 10, after line 7, insert the following:

"➔Section 2. 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) (a) 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, except that the Kentucky Community and Technical College System may assess a mandatory student fee not to exceed eight dollars (\$8) per credit hour to be used exclusively for debt service on amounts not to exceed seventy-five percent (75%) of the total projects cost of the Kentucky Community and Technical College System agency bond projects included in 2014 Ky. Acts ch. 117, Part II, J., 11.

- (b) The Kentucky Community and Technical College System mandatory fee established in this subsection shall only be used for debt service on agency bond projects.
 - (c) Any fee established as provided by this subsection shall cease to be assessed upon the retirement of the project bonds for which it services debt.
 - (d) Prior to the issuance of any bonds, the Kentucky Community and Technical College System shall certify in writing to the secretary of the Finance and Administration Cabinet that sufficient funds have been raised to meet the local match equivalent to twenty-five percent (25%) of the total project cost;
- (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. 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, **except the council shall not establish any race-conscious target or metric not authorized in Section 1 of this Act as a requirement to impact performance funding;**
- (10) Lead and provide staff support for the biennial budget process as provided under KRS

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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,

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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, **except the council shall not establish any race-conscious target or metric not authorized in Section 1 of this Act as a requirement to impact performance funding;**
 - (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, **except the council shall not establish any equal opportunity goals that include any race-conscious target or metric not authorized in Section 1 of this Act as a requirement to impact performance funding**;
- (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

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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 Interim Joint Committee on Families and Children;
- (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, ethical considerations arising from board membership, and the board member removal and replacement provisions of KRS 63.080;
 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

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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 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 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. The employee shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. The amount of tuition waived shall not exceed the cost of tuition at the institution less any state or federal grants received, which shall be credited first to the student's tuition;
- (34) 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;
- (35) Cooperate with the Kentucky Department of Education and the Education Professional Standards Board in providing information sessions to selected postsecondary education

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content faculty and teacher educators of the high school academic content standards as required under KRS 158.6453(2)(1);

- (36) Cooperate with the Office of the Kentucky Center for Statistics and ensure the participation of the public institutions as required in KRS 151B.133;
- (37) Pursuant to KRS 63.080, 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
- (38) 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 3. The Council on Postsecondary Education and each public postsecondary institution shall be prohibited from considering any race-conscious quotas or ranges for the purpose of determinations or distributions under the comprehensive funding model or consideration of outcomes based upon any factor not specifically authorized in Section 1 of this Act.

➔Section 4. The postsecondary education working group established in subsection (11) of Section 1 of this Act shall convene during the 2024 Interim for the sole purpose of considering how to define "underrepresented students" without using race in the comprehensive funding model for the public postsecondary education system created in Section 1 of this Act. By December 1, 2024, the Council on Postsecondary Education shall report the recommendations of the working group to the Governor and to the Legislative Research Commission for referral to the Interim Joint Committees on Education and Appropriations and Revenue. Approved changes

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to the comprehensive funding model for public postsecondary institutions consistent with subsection (1)(o) of Section 1 of this Act shall be made effective for the 2024-2025 fiscal year comprehensive funding model distributions and shall be incorporated in amendments to the Council's comprehensive funding model administrative regulations, 13 KAR 2:120 and 13 KAR 2:130.

➔Section 5. By July 1, 2025, and by July 1 each year thereafter, the postsecondary education working group established in subsection (11) of Section 1 of this Act shall submit all proposed goals and metrics established to be used in the comprehensive funding model to satisfy the requirements of subsection (1)(o) of Section 1 of this Act to the Interim Joint Committees on Education and Appropriations and Revenue. The Interim Joint Committee on Education shall review the proposed goals and metrics by August 1 of each year."; and

Renumber subsequent sections accordingly.