

1 AN ACT relating to the postsecondary education working group.

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

3 ➔Section 1. KRS 164.092 is amended to read as follows:

4 (1) For purposes of this section:

5 (a) "Category I and Category II square feet" means square footage that falls under
6 space categories as defined by the Postsecondary Education Facilities
7 Inventory and Classification Manual published by the United States
8 Department of Education;

9 (b) "Comprehensive university" has the same meaning as in KRS 164.001;

10 (c) "Council" means the Council on Postsecondary Education;

11 (d) "Equilibrium" means a condition in which every institution has an
12 appropriately proportionate level of resources as determined by the
13 performance funding model established in this section given each institution's
14 level of productivity in achieving student success outcomes, course
15 completion outcomes, and other components included in the model;

16 (e) "Formula base amount" means an institution's enacted general fund
17 appropriation amount minus debt service on bonds and appropriations for
18 mandated programs;

19 (f) "Hold-harmless provision" means a provision included in the funding
20 formulas as described in subsection (9) of this section that prevents a
21 reduction of a designated portion of funding for an institution through
22 operation of the funding formula;

23 (g) "Institution" means a college in the Kentucky Community and Technical
24 College System or a public university;

25 (h) "KCTCS" means the Kentucky Community and Technical College System;

26 (i) "KCTCS institution allocable resources" means the formula base amount net
27 of any equity adjustment as described in subsection (7)(b) of this section, any

1 amount protected by a hold-harmless provision, and any applicable increase
2 or decrease in general fund appropriations;

3 (j) "Mandated program" means a research or public service activity that is not
4 integral to the instructional mission of the institution and is identified by the
5 General Assembly in the biennial budget;

6 (k) "Nontraditional age students" means students between the ages of twenty-five
7 (25) and sixty-four (64);

8 (l) "Performance fund" means the postsecondary education performance fund
9 established in subsection (13) of this section;

10 (m) "Research universities" means the University of Kentucky and the University
11 of Louisville;

12 (n) "Stop-loss provision" means a provision included in the funding formulas as
13 described in subsection (9) of this section to limit reduction of an institution's
14 funding amount to a predetermined percentage, notwithstanding the amounts
15 calculated by operation of the formula; and

16 (o) "University allocable resources" means the formula base amount net of any
17 small school adjustment as described in subsection (5)(c) of this section, any
18 amount protected by a hold-harmless provision, and any applicable increase
19 or decrease in general fund appropriations.

20 (2) The General Assembly hereby finds that improving opportunity for the
21 Commonwealth's citizens and building a stronger economy can be achieved by its
22 public college and university system focusing its efforts and resources on the goals
23 of:

24 (a) Increasing the retention and progression of students toward timely credential
25 or degree completion;

26 (b) Increasing the number and types of credentials and degrees earned by all types
27 of students;

- 1 (c) Increasing the number of credentials and degrees that garner higher salaries
2 upon graduation, such as science, technology, engineering, math, and health,
3 and in areas of industry demand;
- 4 (d) Closing achievement gaps by increasing the number of credentials and
5 degrees earned by low-income students, underprepared students,
6 underrepresented students, and nontraditional age students; and
- 7 (e) Facilitating credit hour accumulation and transfer of students from KCTCS to
8 four (4) year postsecondary institutions.
- 9 (3) (a) The General Assembly hereby declares these goals can best be accomplished
10 by implementing a comprehensive funding model for the allocation of state
11 general fund appropriations for postsecondary institution operations that
12 aligns the Commonwealth's investments in postsecondary education with the
13 Commonwealth's postsecondary education policy goals and objectives.
- 14 (b) The General Assembly further recognizes that priority for state general fund
15 appropriations for postsecondary institutions should be given to each
16 institution's funding floor over appropriations to the performance fund. For
17 purposes of this section, "funding floor" means an institution's fiscal year
18 2020-2021 general fund appropriation included in 2020 Ky. Acts ch. 92, plus
19 any fiscal year 2020-2021 distribution from the performance fund, and minus
20 fiscal year 2020-2021 debt service on bonds and appropriations for mandated
21 programs.
- 22 (4) This section establishes a comprehensive funding model for the public
23 postsecondary education system to be implemented by the Council on
24 Postsecondary Education. The funding model shall include a public university
25 sector formula and a KCTCS sector formula, and shall not include any race-based
26 metrics or targets in the formulas.
- 27 (5) The funding formula for the public university sector shall:

- 1 (a) Recognize differences in missions and cost structures between research
2 universities and comprehensive universities to ensure that neither are
3 advantaged or disadvantaged during the first full year of implementation;
- 4 (b) Distribute one hundred percent (100%) of the university allocable resources
5 for all universities in the sector, based on rational criteria, including student
6 success, course completion, and operational support components, regardless
7 of whether state funding for postsecondary institution operations increases,
8 decreases, or remains stable;
- 9 (c) Include an adjustment to minimize impact on smaller campuses as determined
10 by the council; and
- 11 (d) Be constructed to achieve equilibrium, at which point the funding formula
12 rewards rates of improvement above the sector average rate.
- 13 (6) Funding for the public university sector shall be distributed as follows:
- 14 (a) Forty percent (40%) of total university allocable resources shall be distributed
15 based on each university's share of total student success outcomes produced,
16 including but not limited to:
- 17 1. Bachelor's degree production;
 - 18 2. Numbers of students progressing beyond thirty (30), sixty (60), and
19 ninety (90) credit hour thresholds;
 - 20 3. Science, technology, engineering, math, and health bachelor's degree
21 production; and
 - 22 4. Bachelor's degrees earned by low-income students and underrepresented
23 students;
- 24 (b) Thirty percent (30%) of total university allocable resources shall be
25 distributed based on each university's share of sector total student credit hours
26 earned, excluding dual credit enrollment, weighted to account for cost
27 differences by academic discipline and course level, such as lower and upper

1 division baccalaureate, master's, doctoral research, doctoral professional, and
2 nontraditional age students; and

3 (c) Thirty percent (30%) of total university allocable resources shall be
4 distributed in support of vital campus operations as follows:

5 1. Ten percent (10%) shall be distributed based on each university's share
6 of Category I and Category II square feet, net of research, nonclass
7 laboratory, and open laboratory space, to support maintenance and
8 operation of campus facilities and may include a space utilization factor
9 as determined by the council in collaboration with the working group
10 established in subsection (11) of this section;

11 2. Ten percent (10%) shall be distributed based on each university's share
12 of total instruction and student services spending, net of maintenance
13 and operation, to support campus administrative functions; and

14 3. Ten percent (10%) shall be distributed based on each university's share
15 of total full-time equivalent student enrollment to support academic
16 support services such as libraries and academic computing.

17 (7) The funding formula for the KCTCS sector:

18 (a) Shall distribute one hundred percent (100%) of KCTCS institution allocable
19 resources for all KCTCS colleges based on rational criteria, including student
20 success, course completion, and operational support components, regardless
21 of whether state funding for postsecondary institution operations increases,
22 decreases, or remains stable;

23 (b) May include an adjustment to account for community economic disadvantage
24 in some regions of the Commonwealth as determined by the council; and

25 (c) Shall be constructed to achieve equilibrium, at which point the funding
26 formula rewards rates of improvement above the sector average rate.

27 (8) Funding for the KCTCS sector shall be distributed as follows:

- 1 (a) Thirty-five percent (35%) of total KCTCS institution allocable resources shall
2 be distributed based on each college's share of total student success outcomes
3 produced, including but not limited to:
- 4 1. Certificate, diploma, and associate degree production, weighted to
5 provide a premium for credentials that are aligned with the economic
6 needs of the state;
 - 7 2. Numbers of students progressing beyond fifteen (15), thirty (30), and
8 forty-five (45) credit hour thresholds;
 - 9 3. Credentials earned by low-income students, underprepared students,
10 underrepresented students, and nontraditional age students; and
 - 11 4. Transfers to four (4) year institutions;
- 12 (b) Thirty-five percent (35%) of total KCTCS institution allocable resources shall
13 be distributed based on each college's share of total student credit hours
14 earned, weighted to account for cost differences by academic discipline; and
- 15 (c) Thirty percent (30%) of total KCTCS institution allocable resources shall be
16 distributed in support of vital campus operations as follows:
- 17 1. Ten percent (10%) shall be distributed based on each college's share of
18 Category I and Category II square feet, net of research, nonclass
19 laboratory, and open laboratory space, to support maintenance and
20 operation of campus facilities and may include a space utilization factor
21 as determined by the council in collaboration with the postsecondary
22 education working group established in subsection (11) of this section;
 - 23 2. Ten percent (10%) shall be distributed based on each college's share of
24 total instruction and student services spending, net of maintenance and
25 operation, to support campus administrative functions; and
 - 26 3. Ten percent (10%) shall be distributed based on each college's share of
27 total full-time equivalent student enrollment to support academic

1 support services such as libraries and academic computing.

2 (9) (a) The funding formula for both sectors shall include:

- 3 1. A hold-harmless provision for fiscal year 2018-2019 preventing a
4 reduction in an institution's funding amount based solely on the formula
5 calculation, and allowing a hold-harmless amount determined by the
6 formula in fiscal year 2018-2019 to be deducted from an institution's
7 formula base amount in whole or in part in fiscal years 2019-2020 and
8 2020-2021, as determined by the council;
- 9 2. A hold-harmless provision for fiscal year 2021-2022, and every fiscal
10 year thereafter, preventing a reduction in an institution's funding amount
11 based solely on the formula calculation;
- 12 3. A stop-loss provision for fiscal year 2019-2020 limiting the reduction in
13 funding to any institution to one percent (1%) of that institution's
14 formula base amount;
- 15 4. A stop-loss provision for fiscal year 2020-2021 limiting the reduction in
16 funding to any institution to two percent (2%) of that institution's
17 formula base amount; and
- 18 5. A stop-loss provision for fiscal year 2021-2022, and every fiscal year
19 thereafter, limiting the reduction in funding to any institution to zero
20 percent (0%) of that institution's formula base amount.

21 (b) Paragraph (a) of this subsection shall not be construed to limit the level of a
22 budget reduction that may be enacted by the General Assembly or
23 implemented by the Governor.

24 (10) (a) By May 1 each year, the council shall certify to the Office of the State Budget
25 Director the amount to be distributed to each of the public universities and
26 KCTCS as determined by the comprehensive funding model created in this
27 section, not to exceed the available balance in the performance fund.

- 1 (b) The Office of the State Budget Director shall distribute the appropriations in
 2 the performance fund for that fiscal year to the institutions in the amounts the
 3 council has certified. The adjusted appropriations to each institution shall be
 4 allotted as provided in KRS 48.600, 48.605, 48.610, 48.620, and 48.630.
- 5 (c) 1. The certified amounts distributed from the performance fund to the
 6 institutions are nonrecurring funds that shall not be included in the
 7 institutions' base budget amounts submitted in their biennial budget
 8 requests.
- 9 2. The certified amounts distributed from the performance fund in the
 10 previous fiscal year shall be included in the performance fund's base
 11 budget amount submitted by the council in the biennial budget request.
- 12 (d) For fiscal year 2017-2018, the Office of the State Budget Director shall
 13 distribute to the public postsecondary education institutions, except for
 14 Kentucky State University, those funds appropriated to the performance fund
 15 by the General Assembly in 2016 Ky. Acts ch. 149, Part I, K., 12., in
 16 accordance with the comprehensive funding model created in this section.
- 17 (11) (a) The Council on Postsecondary Education is hereby directed to establish a
 18 postsecondary education working group composed of the following:
- 19 1. **Nonvoting members:**
- 20 **a.** The president of the council **who shall serve as chairperson of the**
 21 **group; and**
- 22 **b.** **Nine (9) members who shall be the president or the president's**
 23 **designee of each of the public universities and the Kentucky**
 24 **Community and Technical College System; and**
- 25 2. **Voting members:**
- 26 **a.** **Three (3) members of the Senate appointed by the President of**
 27 **the Senate;**

1 **b. Three (3) members of the House of Representatives appointed by**
 2 **the Speaker of the House;**

3 **c. The state budget director or designee; and**

4 **d. The Governor or designee**

5 ~~{The president or designee of each public postsecondary institution,~~
 6 including the president of KCTCS;

7 ~~3. The Governor or designee;~~

8 ~~4. The Speaker of the House or designee; and~~

9 ~~5. The President of the Senate or designee}.~~

10 (b) Beginning in calendar~~{fiscal}~~ year 2025~~{2020-2021}~~ and **each odd-numbered**
 11 year~~{every three (3) fiscal years}~~ thereafter, the postsecondary education
 12 working group shall convene to determine if the comprehensive funding
 13 model is functioning as expected, identify any unintended consequences of
 14 the model, and recommend any adjustments to the model. The council may
 15 call the working group to convene **in even-numbered years if necessary**~~{prior~~
 16 ~~to the start of the required fiscal year to allow sufficient time for the group to~~
 17 ~~complete its work}.~~

18 (c) The results of the review and recommendations of the working group shall be
 19 reported by the council to the Governor, the Interim Joint Committee on
 20 Appropriations and Revenue, and the Interim Joint Committee on Education
 21 by December 1 of each~~{fiscal}~~ year the working group convenes.

22 (12) The council shall promulgate administrative regulations under KRS Chapter 13A to
 23 implement the provisions of this section.

24 (13) (a) The postsecondary education performance fund is hereby established as an
 25 appropriation unit to support improvement in the operations of the public
 26 postsecondary institutions and achievement of the Commonwealth's education
 27 policy goals and workforce development priorities. General fund moneys may

1 be appropriated by the General Assembly to this fund for distribution to the
2 public postsecondary institutions in amounts determined through the
3 comprehensive funding model created in this section.

4 (b) Any balance in the performance fund at the close of any fiscal year shall not
5 lapse but shall be carried forward to the next fiscal year and be continuously
6 appropriated for the purposes specified in this section. A general statement
7 that all continuing appropriations are repealed, discontinued, or suspended
8 shall not operate to repeal, discontinue, or suspend this fund or to repeal this
9 action.