

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 **members**:
- 19 1. The president of the council **who shall serve as chairperson of the**  
20 **group and shall be a nonvoting member**;
- 21 2. The president or designee of **one (1)**~~each~~ public postsecondary  
22 **research** institution **to be chosen by the presidents of all public**  
23 **postsecondary research institutions**~~[, including the president of~~  
24 ~~KCTCS]~~;
- 25 3. **The president or designee of one (1) public postsecondary**  
26 **comprehensive institution to be chosen by the presidents of all public**  
27 **postsecondary comprehensive institutions**;



- 1            4. The president or designee of the Kentucky Community and Technical
- 2            College System;
- 3            5. Three (3) members of the Senate appointed by the President of the
- 4            Senate;
- 5            6. Three (3) members of the House of Representatives appointed by the
- 6            Speaker of the House;
- 7            7. Three (3) members appointed by the Governor, who:
- 8            a. Have expertise in postsecondary education;
- 9            b. Are not employed by any public postsecondary institution; and
- 10           c. Do not serve on the board of any public postsecondary
- 11           institution; and
- 12           8. The state budget director or his or her designee~~[The Governor or~~
- 13           ~~designee;~~
- 14           ~~4. The Speaker of the House or designee; and~~
- 15           ~~5. The President of the Senate or designee].~~
- 16           (b) Beginning in ~~calendar~~<sup>fiscal</sup> year ~~2025~~<sup>[2020-2021]</sup> and each odd-numbered
- 17           year~~[every three (3) fiscal years]~~ thereafter, the postsecondary education
- 18           working group shall convene to determine if the comprehensive funding
- 19           model is functioning as expected, identify any unintended consequences of
- 20           the model, and recommend any adjustments to the model. The council may
- 21           call the working group to convene prior to the start of the odd-
- 22           numbered~~[required fiscal]~~ year to allow sufficient time for the group to
- 23           complete its work.
- 24           (c) The results of the review and recommendations of the working group shall be
- 25           reported by the council to the Governor, the Interim Joint Committee on
- 26           Appropriations and Revenue, and the Interim Joint Committee on Education
- 27           by December 1 of each~~[fiscal]~~ year the working group convenes.

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

3 (13) (a) The postsecondary education performance fund is hereby established as an  
4 appropriation unit to support improvement in the operations of the public  
5 postsecondary institutions and achievement of the Commonwealth's education  
6 policy goals and workforce development priorities. General fund moneys may  
7 be appropriated by the General Assembly to this fund for distribution to the  
8 public postsecondary institutions in amounts determined through the  
9 comprehensive funding model created in this section.

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