

1 AN ACT relating to the postsecondary education working group and declaring an
2 emergency.

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

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

- 5 (1) For purposes of this section:
- 6 (a) "Category I and Category II square feet" means square footage that falls under
7 space categories as defined by the Postsecondary Education Facilities
8 Inventory and Classification Manual published by the United States
9 Department of Education;
- 10 (b) "Comprehensive university" has the same meaning as in KRS 164.001;
- 11 (c) "Council" means the Council on Postsecondary Education;
- 12 (d) "Equilibrium" means a condition in which every institution has an
13 appropriately proportionate level of resources as determined by the
14 performance funding model established in this section given each institution's
15 level of productivity in achieving student success outcomes, course
16 completion outcomes, and other components included in the model;
- 17 (e) "Formula base amount" means an institution's enacted general fund
18 appropriation amount minus debt service on bonds and appropriations for
19 mandated programs;
- 20 (f) "Hold-harmless provision" means a provision included in the funding
21 formulas as described in subsection (9) of this section that prevents a
22 reduction of a designated portion of funding for an institution through
23 operation of the funding formula;
- 24 (g) "Institution" means a college in the Kentucky Community and Technical
25 College System or a public university;
- 26 (h) "KCTCS" means the Kentucky Community and Technical College System;
- 27 (i) "KCTCS institution allocable resources" means the formula base amount net

1 of any equity adjustment as described in subsection (7)(b) of this section, any
2 amount protected by a hold-harmless provision, and any applicable increase
3 or decrease in general fund appropriations;

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

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

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

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

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

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

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

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

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

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

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

1 differences by academic discipline and course level, such as lower and upper
2 division baccalaureate, master's, doctoral research, doctoral professional, and
3 nontraditional age students; and

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

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

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

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

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

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

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

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

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

1 total full-time equivalent student enrollment to support academic
2 support services such as libraries and academic computing.

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

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

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

25 (10) (a) By May 1 each year, the council shall certify to the Office of the State Budget
26 Director the amount to be distributed to each of the public universities and
27 KCTCS as determined by the comprehensive funding model created in this

1 section, not to exceed the available balance in the performance fund.

2 (b) The Office of the State Budget Director shall distribute the appropriations in
3 the performance fund for that fiscal year to the institutions in the amounts the
4 council has certified. The adjusted appropriations to each institution shall be
5 allotted as provided in KRS 48.600, 48.605, 48.610, 48.620, and 48.630.

6 (c) 1. The certified amounts distributed from the performance fund to the
7 institutions are nonrecurring funds that shall not be included in the
8 institutions' base budget amounts submitted in their biennial budget
9 requests.

10 2. The certified amounts distributed from the performance fund in the
11 previous fiscal year shall be included in the performance fund's base
12 budget amount submitted by the council in the biennial budget request.

13 (d) For fiscal year 2017-2018, the Office of the State Budget Director shall
14 distribute to the public postsecondary education institutions, except for
15 Kentucky State University, those funds appropriated to the performance fund
16 by the General Assembly in 2016 Ky. Acts ch. 149, Part I, K., 12., in
17 accordance with the comprehensive funding model created in this section.

18 (11) (a) The Council on Postsecondary Education is hereby directed to establish a
19 postsecondary education working group composed of the following:

20 1. The president of the council, *who shall serve as chairperson of the*
21 *working group and a nonvoting member;*

22 2. The president or designee of each public postsecondary institution,
23 including the president of KCTCS;

24 3. The Governor or designee;

25 4. *Four (4) members of the House of Representatives appointed by* the
26 Speaker of the House~~[or designee];~~~~[and]~~

27 5. *Four (4) members of the Senate appointed by* the President of the

1 Senate~~[or designee]~~;

2 **6. One (1) member of the House of Representatives appointed by the**
 3 **Minority Floor Leader of the House of Representatives; and**

4 **7. One (1) member of the Senate appointed by the Minority Floor Leader**
 5 **of the Senate.**

6 (b) Beginning in calendar~~[fiscal]~~ year 2026~~[2020-2021]~~ and every three (3)
 7 calendar~~[fiscal]~~ years thereafter, the postsecondary education working group
 8 shall convene to determine if the comprehensive funding model is functioning
 9 as expected, identify any unintended consequences of the model, and
 10 recommend any adjustments to the model. The council may call the working
 11 group to convene prior to the start of the required calendar~~[fiscal]~~ year to
 12 allow sufficient time for the group to complete its work.

13 (c) The results of the review and recommendations of the working group shall be
 14 reported by the council to the Governor, the Interim Joint Committee on
 15 Appropriations and Revenue, and the Interim Joint Committee on Education
 16 by December 1 of each~~[fiscal]~~ year the working group convenes.

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

19 (13) (a) The postsecondary education performance fund is hereby established as an
 20 appropriation unit to support improvement in the operations of the public
 21 postsecondary institutions and achievement of the Commonwealth's education
 22 policy goals and workforce development priorities. General fund moneys may
 23 be appropriated by the General Assembly to this fund for distribution to the
 24 public postsecondary institutions in amounts determined through the
 25 comprehensive funding model created in this section.

26 (b) Any balance in the performance fund at the close of any fiscal year shall not
 27 lapse but shall be carried forward to the next fiscal year and be continuously

1 appropriated for the purposes specified in this section. A general statement
2 that all continuing appropriations are repealed, discontinued, or suspended
3 shall not operate to repeal, discontinue, or suspend this fund or to repeal this
4 action.

5 ➔Section 2. Whereas the work of the postsecondary education working group is
6 necessary for the funding of public postsecondary education institutions, an emergency is
7 declared to exist, and this Act takes effect upon its passage and approval by the Governor
8 or upon its otherwise becoming a law.