

1 AN ACT relating to Kentucky State University, making an appropriation therefor,
2 and declaring an emergency.

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

4 ➔Section 1. (1) The General Assembly hereby finds a significant lack of
5 efficiency and effectiveness in the instructional and operational performance of Kentucky
6 State University and determines that immediate appropriate corrective action is warranted
7 as follows:

8 (a) Whereas Kentucky State University does not have sufficient resources or
9 reserves to continue operating as currently structured, the General Assembly declares that
10 a state of financial exigency exists at Kentucky State University from the effective date of
11 this Act until June 30, 2023. Notwithstanding any existing Kentucky State University
12 policies relating to financial exigency, the Kentucky State University board of regents
13 shall execute a new financial exigency policy by May 15, 2022, that will expedite the
14 restructuring of university operations. The board of regents shall provide a copy of the
15 new exigency policy to the Council on Postsecondary Education and the director of the
16 Legislative Research Commission by June 1, 2022;

17 (b) In accordance with KRS 164.350 and 164.365, the Kentucky State University
18 board of regents has the authority to terminate employment of any university employee,
19 including tenured employees, upon 30 days' notice in accordance with the university's
20 personnel policies and subject to the recommendation of the president or acting president,
21 or in the case of the termination of the president or acting president, the recommendation
22 of the Council on Postsecondary Education;

23 (c) The Council on Postsecondary Education shall approve any Kentucky State
24 University expenditure greater than \$5,000, and the university shall provide a monthly
25 report of university finances to the council in the format requested by the council. The
26 council shall provide a monthly update on the financial status of the university to the
27 Governor and the Legislative Research Commission. The financial oversight granted to

1 the council under this paragraph shall continue until the council reports to the Governor
2 and the Legislative Research Commission that the university's finances are stable;

3 (d) The Kentucky State University board of regents shall cease its search to fill
4 the university's presidential vacancy until April 15, 2023. Upon the effective date of this
5 Act, the board shall conduct a search for an interim president who has experience in
6 university governance with specific emphasis placed on turnaround experience to replace
7 the current interim president, who may serve until replaced;

8 (e) Within one year of the effective date of this Act, the Kentucky State
9 University board of regents, in consultation with the Council on Postsecondary
10 Education, shall conduct a thorough review of all university departments and academic
11 programs for long-term viability, financial stability, alignment with the university's
12 mission, and other criteria determined by the board and the council. In accordance with
13 accreditation requirements, the board shall eliminate or make changes to any department
14 or program found to be ineffective, inconsistent with the university's mission, or
15 otherwise not meeting the review criteria;

16 (f) Kentucky State University faculty and staff employed in departments and
17 programs closed under paragraph (e) of this subsection shall be terminated in accordance
18 with the university's personnel policies but shall not be prohibited from applying for other
19 positions available at the university;

20 (g) 1. Within three months of the effective date of this Act, the Kentucky State
21 University board of regents, in consultation with the Council on Postsecondary
22 Education, shall develop a process to review all faculty and staff performance, including a
23 post-tenure review for tenured faculty as described in subparagraph 2. of this paragraph.
24 The process shall ensure a consistently high level of employee performance and shall
25 include but not be limited to assessments by peers, students, and administrators. In
26 addition to evaluating an employee's growth, accomplishments, and skills, the process
27 shall be used to identify deficiencies and ineffectiveness and redirect employee efforts to

1 improve or increase productivity. The process shall be used as a basis for decisions on
2 continued employment, promotion, salary increases, tenure, and maintenance of tenure;

3 2. In addition to the requirements described in subparagraph 1. of this paragraph,
4 the review process for tenured faculty shall include an evaluation of teaching
5 effectiveness, research body of work, overall commitment to the mission of the
6 university, and other criteria determined by the board and the council;

7 (h) 1. Within one year of the effective date of this Act, the Kentucky State
8 University board of regents, in consultation with the Council on Postsecondary
9 Education, shall conduct a performance review of all faculty and staff as described in
10 paragraph (g) of this section, except as provided in subparagraph 2. of this paragraph, and
11 as a result, determine any board action warranted regarding termination of employees,
12 abolishment of positions, and adjustment of salaries. Any employee who fails to meet the
13 criteria established by the board, including tenured faculty, shall be terminated in
14 accordance with the university's personnel policies;

15 2. If there is not a sufficient body of evidence for a tenured faculty member to
16 undergo the review required under subparagraph 1. of this paragraph, as determined by
17 criteria established by the board in consultation with the council, the review shall be
18 delayed and the faculty member shall be advised of the deficiencies in the body of
19 evidence causing the delay. The review shall take place by April 1, 2024; and

20 (i) All tenured faculty shall undergo an additional post-tenure review as
21 described in paragraph (g) of this section by June 30, 2027.

22 (2) Any reasonable costs incurred by Kentucky State University and approved by
23 the Council on Postsecondary Education related to, or resulting from, implementing
24 personnel actions, including but not limited to terminations, separation incentives,
25 settlements, and judgments shall be reported by the council to the General Assembly for
26 consideration in determining future budget appropriations to the university.

27 ➔Section 2. (1) The Council on Postsecondary Education shall create and

1 oversee a management improvement plan for Kentucky State University designed to
2 assist with organizational and financial stability that includes but is not limited to the
3 following areas:

4 (a) A comprehensive cataloging and review of university policies and procedures
5 to ensure efficiency and compliance with state and federal law;

6 (b) Guidelines for salary ranges and benefits for all faculty, staff, and
7 administrators;

8 (c) Mandatory board member training and development, including but not limited
9 to financial oversight and effective committee structure;

10 (d) Academic program offerings, course offerings, and faculty productivity
11 guidelines;

12 (e) Accounting and fiscal reporting systems, collections, budget, and internal
13 controls over expenditures and financial reporting;

14 (f) Student success and enrollment management strategies;

15 (g) Student academic progress and results; and

16 (h) The development of an online curriculum with the intent of offering
17 Bachelor's and Master's degrees online.

18 (2) The plan shall include:

19 (a) Specific, measurable goals, objectives, and benchmarks for each of the
20 improvement areas;

21 (b) A process for monitoring and evaluating Kentucky State University's progress
22 toward meeting the goals, objectives, and benchmarks; and

23 (c) The terms and conditions for the termination of the plan.

24 (3) The plan shall include, as determined by the council, on-site council or third-
25 party staff in a management, advisory, or administrative capacity to provide assistance to
26 Kentucky State University in implementing the plan.

27 (4) The Kentucky State University board of regents shall fully cooperate and

1 timely consult with the council in developing and implementing the plan and shall
2 provide all information and documentation requested by the council in overseeing the
3 plan.

4 (5) The council shall submit the plan to the Legislative Research Commission by
5 November 1, 2022. Any revisions to the plan shall be submitted to the Commission after
6 adoption.

7 (6) The council shall contract with an independent third party to make
8 recommendations on the university's governance and operational structure and evaluate
9 the university's performance throughout the period of the council's oversight.

10 (7) By June 1 and November 1, 2022, and by June 1 and November 1 of each year
11 thereafter the plan is in effect, the council shall provide reports to the Interim Joint
12 Committee on Education detailing the status of the development, implementation, and
13 results of the plan.

14 (8) During Fiscal Years 2022-2023, 2023-2024, and 2024-2025, the Kentucky
15 State University president and a member of the Kentucky State University board of
16 regents shall provide a combined total of at least four updates each year on the progress of
17 the management improvement plan and the investigation of the actions that led to the
18 financial shortfall described in Section 3 of this Act to one or more of the following
19 committees: the Budget Review Subcommittee on Postsecondary Education, the Interim
20 Joint Budget Review Subcommittee on Education, the Interim Joint Committee on
21 Appropriations and Revenue, or the Interim Joint Committee on Education.

22 (9) By November 1, 2025, the council shall provide a three-year performance
23 analysis of Kentucky State University based on the management improvement plan to the
24 Interim Joint Committee on Education, the Interim Joint Committee on Appropriations
25 and Revenue, and the State Auditor of Public Accounts. The council shall provide
26 recommendations for a transition plan to a new governance and operational structure for
27 the institution for consideration by the General Assembly if the analysis finds a

1 continuing significant lack of efficiency and effectiveness in the governance and
2 administration of Kentucky State University. Upon the recommendation of the council,
3 the General Assembly may extend the council's involvement with and oversight of the
4 university beyond 2025.

5 ➔Section 3. (1) There is hereby appropriated to the Council on
6 Postsecondary Education General Fund moneys in the amount of \$23,000,000 in fiscal
7 year 2021-2022 to address financial instability at Kentucky State University, including a
8 cash shortfall due to prior year deficits and a projected financial structural imbalance in
9 fiscal year 2021-2022. Prior to receiving any disbursement of the funds from the council,
10 the university shall submit a request with supporting documentation required by the
11 council for the council's review and approval and make recommendations for further
12 investigations necessary, if any conduct has risen to the level of a crime. The total
13 disbursed to Kentucky State University shall be a non-interest bearing loan to be repaid
14 by university. Funds not disbursed to the university shall be deposited to the loan
15 repayment trust fund created in Section 4 of this Act.

16 (2) By November 1, 2025, the Council on Postsecondary Education shall make
17 recommendations to the Interim Joint Committee on Appropriations and Revenue for
18 consideration by the General Assembly during the 2026 Regular Session for the terms
19 and schedule for repayment of the loan beginning in fiscal year 2026-2027 based on
20 ongoing monitoring of Kentucky State University's financial status.

21 (3) The council shall provide an annual report to the Interim Joint Committee on
22 Appropriations and Revenue detailing the status of the Kentucky State University loan by
23 November 1, 2026, and by November 1 each year thereafter for as long as the loan is in
24 effect.

25 ➔Section 4. (1) The Kentucky State University loan repayment trust fund is
26 hereby created as a trust fund in the State Treasury to be administered by the Council on
27 Postsecondary Education for the purpose of receiving loan payments as described in

1 Section 3 of this Act.

2 (2) The trust fund shall consist of amounts repaid by Kentucky State University
3 and any amounts not disbursed to the university as described in Section 3 of this Act.

4 (3) The balance in the trust fund shall be invested as provided in KRS 42.500(9).
5 Income earned from the investments shall be credited to the trust fund.

6 (4) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year
7 shall not lapse but shall be carried forward to the next fiscal year. All receipts in the fund
8 shall remain in the fund until appropriated by the General Assembly.

9 ➔Section 5. There is hereby appropriated to the Council on Postsecondary
10 Education General Fund moneys in the amount of \$5,000,000 in fiscal year 2022-2023
11 and \$10,000,000 in fiscal year 2023-2024 for the purposes of distributing funds to
12 Kentucky State University, as determined by the council, as goals and benchmarks are
13 met by the university in accordance with the management improvement plan established
14 in Section 2 of this Act. Nothing in this section shall be considered as a performance fund
15 distribution under KRS 164.092, and the university shall be included in the
16 comprehensive funding model as described in KRS 164.092.

17 ➔Section 6. There is hereby appropriated to the Council on Postsecondary
18 Education General Fund moneys in the amount of \$1,500,000 in fiscal year 2022-2023
19 for the costs incurred by the council in carrying out its duties described in Sections 1 to 3
20 of this Act.

21 ➔Section 7. Whereas the financial health and success of Kentucky State
22 University, a comprehensive, historically Black land-grant university, is vital to the well-
23 being of Kentucky's postsecondary education system and the students it serves, an
24 emergency is declared to exist, and this Act takes effect upon its passage and approval by
25 the Governor or upon its otherwise becoming a law.