

CHAPTER 183**(HB 250)**

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

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

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

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

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

(c) The Council on Postsecondary Education shall approve any Kentucky State University expenditure greater than \$5,000, and the university shall provide a monthly report of university finances to the council in the format requested by the council. The council shall provide a monthly update on the financial status of the university to the Governor and the Legislative Research Commission. The financial oversight granted to the council under this paragraph shall continue until the council reports to the Governor and the Legislative Research Commission that the university's finances are stable;

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

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

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

(g) 1. Within three months of the effective date of this Act, the Kentucky State University board of regents, in consultation with the Council on Postsecondary Education, shall develop a process to review all faculty and staff performance, including a post-tenure review for tenured faculty as described in subparagraph 2. of this paragraph. The process shall ensure a consistently high level of employee performance and shall include but not be limited to assessments by peers, students, and administrators. In addition to evaluating an employee's growth, accomplishments, and skills, the process shall be used to identify deficiencies and ineffectiveness and redirect employee efforts to improve or increase productivity. The process shall be used as a basis for decisions on continued employment, promotion, salary increases, tenure, and maintenance of tenure;

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

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

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

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

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

➔Section 2. (1) The Council on Postsecondary Education shall create and oversee a management improvement plan for Kentucky State University designed to assist with organizational and financial stability that includes but is not limited to the following areas:

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

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

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

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

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

(f) Student success and enrollment management strategies;

(g) Student academic progress and results; and

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

(2) The plan shall include:

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

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

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

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

(4) The Kentucky State University board of regents shall fully cooperate and timely consult with the council in developing and implementing the plan and shall provide all information and documentation requested by the council in overseeing the plan.

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

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

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

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

(9) By November 1, 2025, the council shall provide a three-year performance analysis of Kentucky State University based on the management improvement plan to the Interim Joint Committee on Education, the Interim Joint Committee on Appropriations and Revenue, and the State Auditor of Public Accounts. The council shall provide recommendations for a transition plan to a new governance and operational structure for the institution for consideration by the General Assembly if the analysis finds a continuing significant lack of efficiency and effectiveness in the governance and administration of Kentucky State University. Upon the recommendation of the council, the General Assembly may extend the council's involvement with and oversight of the university beyond 2025.

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

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

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

➔Section 4. (1) The Kentucky State University loan repayment trust fund is hereby created as a trust fund in the State Treasury to be administered by the Council on Postsecondary Education for the purpose of receiving loan payments as described in Section 3 of this Act.

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

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

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

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

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

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

Signed by Governor April 8, 2022.