

1 AN ACT relating to postsecondary education and making an appropriation therefor.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
4 READ AS FOLLOWS:

5 *(1) The General Assembly:*

6 *(a) Recognizes that the college bachelor degree attainment rate in certain coal-*
7 *producing counties in southeastern Kentucky is lower than in the*
8 *remainder of the state;*

9 *(b) Acknowledges that two-thirds (2/3) of the local government economic*
10 *development fund is to be allocated to individual counties for specific*
11 *economic development projects as approved by the General Assembly for*
12 *those counties;*

13 *(c) Acknowledges that one-third (1/3) of the local government economic*
14 *development fund is to be allocated to economic development projects which*
15 *benefit multiple counties;*

16 *(d) Recognizes that the economy of the future will require a more highly*
17 *educated population;*

18 *(e) Acknowledges that a residential comprehensive college experience makes a*
19 *major contribution to the development of young people into mature,*
20 *independent, and productive adults capable of contributing to the*
21 *development of a sustainable economy;*

22 *(f) Recognizes that the availability of an affordable comprehensive residential*
23 *postsecondary institution in southeastern Kentucky will contribute to the*
24 *development of a more highly educated population which will more likely*
25 *stay in the area to help develop the economy;*

26 *(g) Recognizes that the development of intellectual capital is as important to the*
27 *development of an economy as physical capital;*

- 1 (h) Concludes that the best expenditure of unobligated funds flowing into the
2 multi-county local government economic development fund is to develop
3 intellectual capital;
- 4 (i) Concludes that a state-supported comprehensive university supported with
5 these uncommitted funds and dedicated to eliminating the educational
6 deficiency in certain coal-producing counties of southeastern Kentucky can
7 best accomplish this end; and
- 8 (j) Concludes that support of such a university will positively impact multiple
9 counties and, in fact, the entire Commonwealth.
- 10 (2) The Southeastern Kentucky Educational Attainment District consisting of Bell,
11 Breathitt, Floyd, Harlan, Johnson, Knott, Leslie, Letcher, Magoffin, Martin,
12 Perry, and Pike counties is hereby created.
- 13 (3) (a) The University of Pikeville, a state-supported comprehensive university, is
14 hereby established.
- 15 (b) The University of Pikeville shall be located within the Southeastern
16 Kentucky Educational Attainment District.
- 17 (c) The mission of the University of Pikeville shall be to increase the bachelor's
18 degree percentage attainment rate of current high school graduates from
19 the district to the state average.
- 20 (d) The University of Pikeville shall consist of a traditional university campus
21 with residential facilities and other resources, amenities, and activities
22 which will give students the opportunity to have a comprehensive college
23 experience of living and working with people from different cultures and
24 areas of the state and world.
- 25 (e) The University of Pikeville shall establish the Southeastern Kentucky
26 Educational Attainment Program which shall:
- 27 1. Work with the administration of every middle school in the district to

- 1 increase the knowledge of the students and parents that they need to
2 acquire a college degree, they can do college work, they can afford
3 college, and what it will require of the student to be ready for college
4 when they graduate from high school;
- 5 2. Perform other activities which will encourage middle school students
6 to adopt a goal of securing a college education;
- 7 3. Work with every high school in the district to increase awareness of
8 students and their parents that students need to acquire a college
9 degree, they can do college work, and they can afford college;
- 10 4. Ensure that all students are knowledgeable about what is required to
11 be successful in college and provide other motivational activities to
12 encourage high school students to pursue a college education;
- 13 5. Work with high schools and students to remediate deficiencies in
14 college readiness while they are still in high school and to improve
15 college readiness when students graduate from high school; and
- 16 6. Provide in-school financial aid and scholarship information through
17 student seminars, parent seminars, university campus visits, and
18 dissemination of published informational materials.
- 19 (f) In order to measure progress in improving the attainment of bachelor
20 degrees in the district:
- 21 1. The Council on Postsecondary Education shall determine the six (6)
22 year bachelor degree percentage attainment rate for the graduates of
23 each high school in the district for those students who graduated in
24 the 2005-2006 academic year and shall convert this data into a district
25 bachelor degree percentage attainment rate for that cohort. This shall
26 be the base percentage attainment rate against which the six (6) year
27 bachelor degree percentage attainment rate of subsequent graduating

- 1 cohorts will be compared;
- 2 2. Each year the council shall publish the bachelor's degree percentage
3 attainment rate of the graduates of each high school in the district six
4 (6) years after they graduate and convert that data into a district
5 bachelor's degree percentage attainment rate; and
- 6 3. The goal of the University of Pikeville shall be for the six (6) year
7 bachelor's degree percentage attainment rate of the district's
8 graduates of the 2016-2017 academic year be equal to the bachelor's
9 degree percentage attainment rate for the statewide cohort of
10 graduates of the 2016-2017 academic year.
- 11 (g) The University of Pikeville shall ensure, subject to the requirements of the
12 Council on Postsecondary Education, that all bachelor's and master's
13 degree programs which are needed for this student population can be
14 efficiently provided either by the University of Pikeville or in cooperation
15 with other existing colleges and universities, public or independent, which
16 have historically provided educational opportunities for high school
17 graduates from the Southeastern Kentucky Educational Attainment
18 District.
- 19 (h) The University of Pikeville may operate extension campuses within this
20 district and is encouraged to offer courses at times and locations which will
21 make it more convenient for nontraditional-age students to attain
22 bachelor's and master's degrees.
- 23 (4) The Council on Postsecondary Education shall approve the University of
24 Pikeville base tuition rate for the 2012-2013 school year that is commensurate
25 with tuition rates of other comprehensive universities in the Commonwealth. In
26 subsequent years, the council shall approve changes in the tuition rate in the
27 same manner as it approves changes in the tuition rates of the other

1 comprehensive universities.

2 (5) The University of Pikeville shall comply with all statutes and administrative
3 regulations governing comprehensive universities within the Commonwealth.

4 (6) (a) The University of Pikeville shall be governed initially by a board of regents
5 initially consisting of eight (8) members appointed by the Governor.

6 1. One (1) member shall be appointed to a term which will expire June
7 30, 2013;

8 2. One (1) member shall be appointed to a term which will expire June
9 30, 2014;

10 3. One (1) member shall be appointed to a term which will expire June
11 30, 2016;

12 4. One (1) member shall be appointed to a term which will expire June
13 30, 2017;

14 5. Two (2) members shall be appointed to a term which will expire June
15 30, 2015; and

16 6. Two (2) members shall be appointed to a term which will expire June
17 30, 2018.

18 (b) After the University of Pikeville is operational:

19 1. One (1) additional member shall be selected by the faculty for a three
20 (3) year term, the first term expiring June 30, 2013;

21 2. One (1) additional member shall be selected by the staff for a three (3)
22 year term, the first term expiring June 30, 2014;

23 3. One (1) additional member shall be selected by the students for a one
24 (1) year term which shall expire June 30 of each year; and

25 4. The above members shall be voting members equal in every respect to
26 the members appointed by the Governor.

27 (7) (a) The University of Pikeville is authorized to accept all of the assets and

1 liabilities excluding the endowment of the previous private University of
 2 Pikeville as a gift without any remuneration.

3 **(b) This transfer of assets and liabilities shall be negotiated with the Board of**
 4 **Trustees of the private University of Pikeville and shall occur only upon the**
 5 **approval of the Board of Trustees of the private University of Pikeville.**

6 **(c) The transfer agreement shall include the right to use the name "The**
 7 **University of Pikeville" and the current private entity known as the**
 8 **University of Pikeville shall change its name.**

9 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
 10 READ AS FOLLOWS:

11 **(1) The southeastern Kentucky educational attainment fund is hereby created as a**
 12 **trust fund in the state treasury. Amounts in the fund may be appropriated for the**
 13 **support of the University of Pikeville.**

14 **(2) The trust fund shall consist of amounts transferred from coal severance tax**
 15 **receipts as provided in Section 3 of this Act and any other proceeds from grants,**
 16 **contributions, appropriations, or other moneys made available for the fund.**

17 **(3) Any unallocated or unencumbered balanced in the trust fund shall be invested as**
 18 **provided in KRS 42.500(9). Income earned from the investments shall be credited**
 19 **to the trust fund.**

20 **(4) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year**
 21 **shall not lapse but shall be carried forward to the next fiscal year.**

22 **(5) Moneys in the fund may be accessed by the University of Pikeville as they are**
 23 **deposited in the fund, provided that:**

24 **(a) The University of Pikeville may access any carry forward balance if deposits**
 25 **to the fund are less than the annual appropriation in any year; and**

26 **(b) The University of Pikeville shall not access a total annual amount that is**
 27 **greater than the annual appropriation.**

1 **(6) The funds may be used by the University of Pikeville for:**

2 **(a) Scholarships to attend the University of Pikeville;**

3 **(b) Operations of the University of Pikeville, including salaries, utilities,**
 4 **supplies, and other similar expenses consistent with other comprehensive**
 5 **universities within the Commonwealth; and**

6 **(c) Debt retirement on state bonds approved by the General Assembly.**

7 ➔Section 3. KRS 42.4592 is amended to read as follows:

8 (1) Moneys remaining in the local government economic development fund following
 9 the transfer of moneys to the local government economic assistance fund provided
 10 for in KRS 42.4585 and following the transfer of moneys to the secondary wood
 11 products development fund provided for in KRS 42.4586 shall be allocated as
 12 follows:

13 (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal
 14 producing county on the basis of the ratio of total tax collected in the current
 15 and preceding four (4) years on coal severed in each respective county to the
 16 total tax collected statewide in the current and four (4) preceding years.

17 (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to
 18 each coal-producing county on the basis of the following factors, which shall
 19 be computed for the current and four (4) preceding years, and which shall be
 20 equally weighted:

- 21 1. Percentage of employment in mining in relation to total employment in
 22 the respective county;
- 23 2. Percentage of earnings from mining in relation to total earnings in the
 24 respective county; and
- 25 3. Surplus labor rate; ~~and~~[-]

26 (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for:

- 27 1. Expenditure for industrial development projects benefiting two (2) or

1 more coal-producing counties. For purposes of this paragraph, "coal-
 2 producing county" shall mean a county which has produced coal in the
 3 current or any one of the four (4) preceding years; and

4 **2. Transfers to the southeastern Kentucky educational attainment fund**
 5 **established in Section 2 of this Act, with the amount transferred**
 6 **determined in accordance with subsection (4) of this section.**

7 (2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of
 8 employment in mining" and "percentage of earnings from mining" shall be the
 9 percentages published for the latest available five (5) year period by the
 10 Bureau of Economic Analysis in the United States Department of Commerce;
 11 "surplus labor rate" shall be the rate published for the latest available five (5)
 12 year period by the Office of Employment and Training of the Department of
 13 Workforce Investment in the Education and Workforce Development Cabinet,
 14 as provided in paragraph (b) of this subsection.

15 (b) 1. Each year the Office of Employment and Training shall estimate surplus
 16 labor for each county and for the Commonwealth and shall annually
 17 publish an estimate of the surplus labor rate for each county and the
 18 Commonwealth.

19 2. The estimate of surplus labor for each county and for the
 20 Commonwealth shall be made using the best practical method available
 21 at the time the estimates are made. In determining the method to be
 22 adopted, the Office of Employment and Training may consult with
 23 knowledgeable individuals, including but not limited to the Office of the
 24 United States Bureau of Labor Statistics, state and national researchers,
 25 state and local officials, and staff of the Legislative Research
 26 Commission. The description of the method used to estimate surplus
 27 labor shall be reported in each annual publication provided for in

1 subparagraph 1. of this paragraph.

2 3. For purposes of this section, "surplus labor" means the total number of
3 residents who can be classified as unemployed or as discouraged
4 workers, and "surplus labor rate" means the percentage of the potential
5 civilian labor force which is surplus labor.

6 (3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1)
7 of this section shall retain their identity with respect to the county to which they are
8 attributable, and a separate accounting of available moneys within the fund shall be
9 maintained for the respective counties. Accounting for funds allocated under the
10 provisions of this section shall be by the Department for Local Government.

11 **(4) The portion of the funds allocated under subsection (1)(c) of this section to the**
12 **southeastern Kentucky educational attainment fund established in Section 2 of**
13 **this Act shall be determined on a quarterly basis as follows:**

14 **(a) The quarterly single county allocation percentages determined under**
15 **subsection (1)(a) of this section for Bell, Breathitt, Floyd, Harlan, Johnson,**
16 **Knott, Leslie, Letcher, Magoffin, Martin, Perry, and Pike counties shall be**
17 **added together;**

18 **(b) The sum of the percentages determined under paragraph (a) of this**
19 **subsection shall be multiplied by the quarterly amount allocated under**
20 **subsection (1)(c) of this section, after deducting any line-item**
21 **appropriations included in the enacted budget of the Commonwealth,**
22 **including a prorated quarterly allocation of appropriated debt service,**
23 **regardless of when debt service payments are actually made and before**
24 **deducting amounts for any grants authorized under KRS 42.4588; and**

25 **(c) The resulting amount shall be transferred to the southeastern Kentucky**
26 **educational attainment fund.**

27 ➔Section 4. KRS 164.295 is amended to read as follows:

- 1 (1) The seven (7)~~six (6)~~ state universities:
- 2 (a) Shall provide, upon approval of the Council on Postsecondary Education,
3 associate and baccalaureate programs of instruction;
- 4 (b) Shall provide, upon approval of the Council on Postsecondary Education,
5 graduate programs of instruction at the master's-degree level in education,
6 business, and the arts and sciences, specialist degrees, and programs beyond
7 the master's-degree level to meet the requirements for teachers, school leaders,
8 and other certified personnel; and
- 9 (c) Shall provide research and service programs directly related to the needs of
10 their primary geographical areas.
- 11 (2) A comprehensive university may provide:
- 12 (a) Programs of a community college nature in their own community comparable
13 to those listed for the Kentucky Community and Technical College System, as
14 provided in KRS 164.580;
- 15 (b) Upon approval of the Council on Postsecondary Education, an advanced
16 practice doctoral program in nursing in compliance with KRS 314.111 and
17 314.131; and
- 18 (c) Upon approval of the Council on Postsecondary Education, a maximum of
19 three (3) advanced practice doctoral programs including a program approved
20 under paragraph (b) of this subsection and an Ed.D. program approved under
21 subsection (1)(b) of this section.
- 22 (3) The Council on Postsecondary Education, in consultation with the Advisory
23 Conference of Presidents pursuant to KRS 164.021, shall develop criteria and
24 conditions upon which an advanced practice doctoral degree program may be
25 approved. The criteria shall include but not be limited to a determination of the
26 academic and workforce needs for a program, consideration of whether the program
27 can be effectively delivered through a collaborative effort with an existing program

1 at another public university within the Commonwealth, and the capacity of a
2 university to effectively offer the program. A university requesting approval of an
3 advanced practice doctoral program shall be required to provide assurance that
4 funding for the program will not impair funding of any existing program at any
5 other public university. The university shall make an annual report to the council
6 identifying the full cost of and all funding sources for each approved doctoral
7 program and the performance of each approved program. Nothing in this subsection
8 shall prohibit the council from approving a doctoral program under consideration at
9 a comprehensive university prior to the effective date of the administrative
10 regulations required by subsection (4) of this section, provided that the council
11 determines that the conditions and criteria set out in this subsection have been met.

12 (4) The council shall promulgate administrative regulations setting forth the agreed-on
13 criteria and conditions identified under subsection (3) of this section.

14 (5) The council shall submit the approval process to the Interim Joint Committee on
15 Education by October 15, 2011.

16 (6) The council shall, with the unanimous consent of the members of the Advisory
17 Conference of Presidents pursuant to KRS 164.021, make a recommendation to the
18 Interim Joint Committee on Education as to whether any portion of subsection (2)
19 of this section should be amended.

20 (7) A comprehensive university shall not:

21 (a) Offer the terminal degrees of Doctor of Philosophy, Doctor of Musical Arts,
22 or first professional degrees in the fields of architecture, medicine, dentistry,
23 pharmacy, law, or engineering. The existing school of law at Northern
24 Kentucky and the Kentucky College of Osteopathic Medicine at the
25 University of Pikeville are~~is~~ exempted from the requirements of this
26 paragraph; or

27 (b) Describe itself in official publications or in marketing materials as a research

1 university or research institution. Nothing in this paragraph shall be construed
 2 as precluding a comprehensive university from conducting basic, applied, or
 3 translational research.

4 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
 5 READ AS FOLLOWS:

6 *The entire Local Government Economic Development Program is a cooperative*
 7 *endeavor of the counties and state government. A comprehensive economic*
 8 *development strategy shall include a combination of infrastructure capital and*
 9 *intellectual capital. The University of Pikeville and the Southeastern Kentucky*
 10 *Educational Attainment Program shall be charged with developing the intellectual*
 11 *capital needed to grow the economy in the Southeastern Kentucky Educational*
 12 *Attainment District established in Section 1 of this Act. To demonstrate the connection*
 13 *between infrastructure capital and intellectual capital, all students from a county*
 14 *within the district benefiting from this program funded by the Local Government*
 15 *Economic Development Program shall be notified that they are the recipient of a*
 16 *benefit from the local government economic development fund, and the notification*
 17 *shall acknowledge credit for that benefit to the Governor, members of the General*
 18 *Assembly, the county judge/executive, and the fiscal court of each county.*

19 ➔Section 6. KRS 164.001 is amended to read as follows:

20 As used in this chapter, unless the context requires otherwise:

- 21 (1) "Administrator" means the chief executive officer of the institution;
- 22 (2) "Adult basic education" means instruction in mathematics, science, social studies,
 23 reading, language arts, and related areas to enable individuals to better function in
 24 society;
- 25 (3) "Benchmarks" means objective measures developed where applicable or practical
 26 by the Council on Postsecondary Education to judge the performance of the
 27 postsecondary education system and progress toward the goals as stated in KRS

- 1 164.003(2);
- 2 (4) "Board" or "governing board" means the board of trustees for the University of
3 Kentucky or the University of Louisville, the board of regents for a comprehensive
4 university, or the board of regents for the Kentucky Community and Technical
5 College System;
- 6 (5) "Board of regents" means the governing board of each comprehensive university
7 and the Kentucky Community and Technical College System;
- 8 (6) "Committee" means the Strategic Committee on Postsecondary Education created in
9 KRS 164.004;
- 10 (7) "Comprehensive university" means the following public institutions: Eastern
11 Kentucky University, Kentucky State University, Morehead State University,
12 Murray State University, Northern Kentucky University, *the University of Pikeville,*
13 and Western Kentucky University;
- 14 (8) "Council" means the Council on Postsecondary Education created in KRS 164.011;
- 15 (9) "Customized training" means training in specific academic areas, work processes, or
16 technical skills that are designed to serve a specific industry or industries to upgrade
17 worker skills;
- 18 (10) "Goals" means the six (6) goals specified in KRS 164.003(2);
- 19 (11) "Independent institution" means a nonpublic postsecondary education institution in
20 Kentucky whose instruction is not solely sectarian in nature, is accredited by a
21 regional accrediting association recognized by the United States Department of
22 Education, and is licensed by the Council on Postsecondary Education;
- 23 (12) "Institution" means a university, college, community college, health technology
24 center, vocational-technical school, technical institute, technical college, technology
25 center, or the Kentucky Community and Technical College System;
- 26 (13) "Kentucky Community and Technical College System" means the system composed
27 of public community and technical colleges, including those postsecondary

1 institutions operated by the former Cabinet for Workforce Development and those
2 community colleges in the University of Kentucky Community College System on
3 May 30, 1997.

4 The system also includes institutions created by the board of regents for the
5 Kentucky Community and Technical College System and approved by the General
6 Assembly;

7 (14) "Literacy" means an individual's ability to read, write, and speak in English and
8 compute and solve problems at levels of proficiency necessary to function on the
9 job and in society to achieve one's goals and develop one's knowledge and potential;

10 (15) "Lower division academic course" means any academic course offered for college
11 or university credit that is designated as a freshman or sophomore level academic
12 course;

13 (16) "Nonteaching personnel" means any employee who is a full-time staff member,
14 excluding a president, chancellor, vice president, academic dean, academic
15 department chair, or administrator;

16 (17) "Postsecondary education system" means the following public institutions:
17 University of Kentucky, University of Louisville, Eastern Kentucky University,
18 Kentucky State University, Morehead State University, Murray State University,
19 Northern Kentucky University, *the University of Pikeville*, Western Kentucky
20 University, and the Kentucky Community and Technical College System;

21 (18) "P-16 council" or "council of partners" means a local or state council that is
22 composed of educators from public and private preschools, elementary, secondary,
23 and postsecondary education institutions, local board of education members, and
24 may include community and business representatives that have voluntarily
25 organized themselves for the purpose of improving the alignment and quality of the
26 education continuum from preschool through postsecondary education as well as
27 student achievement at all levels;

- 1 (19) "Public" means operated with state support;
- 2 (20) "Relative" means a person's father, mother, brother, sister, husband, wife, son,
3 daughter, aunt, uncle, son-in-law, or daughter-in-law;
- 4 (21) "Remedial education" means any program, course, or activity that is designed
5 specifically for students who have basic deficiencies in reading, written or oral
6 communication, mathematics, study skills, or other skills necessary to do beginning
7 postsecondary work as defined by the institution;
- 8 (22) "Standardized degree program" means a program, approved by the Council on
9 Postsecondary Education, that consists of specific competencies, curriculum, and
10 performance requirements regardless of the providing institution;
- 11 (23) "Strategic agenda" means the state strategic postsecondary education agenda
12 described in KRS 164.0203;
- 13 (24) "Technical institution" means an educational institution that offers certificates,
14 diplomas, or technical degrees in technical or occupational-related programs,
15 including a facility called a vocational-technical school, technical institute, health
16 technology center, technology center, technical college, or similar designation; and
- 17 (25) "Learning outcomes" means the knowledge, skills, and abilities that students have
18 attained as a result of their involvement in a particular set of educational
19 experiences.

20 ➔Section 7. KRS 164.011 is amended to read as follows:

- 21 (1) There is hereby created and established a Council on Postsecondary Education in
22 Kentucky as an agency, instrumentality, and political subdivision of the
23 Commonwealth and a public body corporate and politic having all powers, duties,
24 and responsibilities as are provided to it by law, appointed for a term set by law
25 pursuant to Section 23 of the Constitution of Kentucky. The council shall be
26 composed of the commissioner of education, a faculty member, a student member,
27 and thirteen (13) citizen members appointed by the Governor. The citizen members

1 shall be confirmed by the Senate and the House of Representatives under KRS
2 11.160, and the commissioner of education shall serve as a nonvoting ex officio
3 member. Citizen council members shall be selected from a list of nominees
4 provided to the Governor under the nominating process set forth in KRS 164.005. If
5 the General Assembly is not in session at the time of the appointment, persons
6 appointed shall serve prior to confirmation, but the Governor shall seek the consent
7 of the General Assembly at the next regular session or at an intervening
8 extraordinary session if the matter is included in the call of the General Assembly.

9 (2) By no later than thirty (30) days after May 30, 1997, the Governor's Postsecondary
10 Education Nominating Committee shall submit nominations to the Governor as set
11 forth in KRS 164.005. On making appointments to the council, the Governor shall
12 assure broad geographical and political representation; assure equal representation
13 of the two (2) sexes, inasmuch as possible; assure no less than proportional
14 representation of the two (2) leading political parties of the Commonwealth based
15 on the state's voter registration; and assure that appointments reflect the minority
16 racial composition of the Commonwealth. In filling vacancies to the council, the
17 Governor shall act so as to provide, inasmuch as possible, equal representation of
18 the two (2) sexes by appointing a member of the sex that is the lesser represented at
19 the time of the appointment. If the remaining membership already has an equal
20 number of males and females, the Governor may appoint a member of either sex.
21 No more than two (2) members of the council shall hold an undergraduate degree
22 from any one (1) Kentucky university, and no more than three (3) voting members
23 of the council shall reside in any one (1) judicial district of the Kentucky Supreme
24 Court as of the date of the appointment. However, change in residency after the date
25 of appointment shall not affect the ability to serve.

26 (3) One (1) member shall be a full-time faculty member employed at a state institution
27 of postsecondary education. The faculty member shall be appointed to a four (4)

1 year term by the Governor from a list of three (3) nominees selected and submitted
2 by majority vote of the ten (10) faculty members who serve as faculty
3 representatives of the boards of trustees and boards of regents of the ten (10)~~nine~~
4 ~~(9)~~ postsecondary education institutions.

5 (4) One (1) member shall be enrolled as a full-time student at a state institution of
6 postsecondary education and shall be selected annually in the following manner: not
7 later than June 1 of each year the nine (9)~~eight (8)~~ student body presidents of the
8 four (4) year state public institutions of higher education and the two (2) student
9 members to the Kentucky Community and Technical College System shall elect by
10 majority vote three (3) nominees to submit to the Governor. From this list of
11 nominees, the Governor shall appoint a student member.

12 (5) In filling any vacancies, the Governor shall ensure the continuing representation
13 upon the council of the broad constituencies as set forth in subsection (2) of this
14 section. Vacancies on the council shall be filled for the unexpired term in
15 accordance with the procedures established for the original appointments.

16 (6) Each citizen member shall serve a term of six (6) years, except the initial
17 appointments shall be as follows:

18 (a) Two (2) appointments shall expire December 31, 1997;

19 (b) Three (3) appointments shall expire December 31, 1998;

20 (c) Two (2) appointments shall expire December 31, 1999;

21 (d) Two (2) appointments shall expire December 31, 2000;

22 (e) Two (2) appointments shall expire December 31, 2001; and

23 (f) Two (2) appointments shall expire December 31, 2002.

24 (7) Any person, other than the chief state school officer, holding either an elective or
25 appointive state office or who is a member of the governing board of any state
26 university in Kentucky, shall be ineligible for membership or appointment on the
27 council during his term.

- 1 (8) The members of the council shall elect the chair and the vice chair of the council
2 from among the council's membership, and the chair and vice chair shall serve at
3 the pleasure of the council. The vice chair shall serve as chair in the absence of the
4 chair.
- 5 (9) The council shall meet at least quarterly and at other times upon the call of the chair
6 or a majority of the council.
- 7 (10) A quorum shall be a majority of the appointive membership of the council.
- 8 (11) A quorum shall be required to organize and conduct the business of the council,
9 except that an affirmative vote of eight (8) or more appointive members of the
10 entire council shall be required to dismiss from employment the president of the
11 council, and to adopt or amend the state strategic postsecondary education agenda.
- 12 (12) New appointees to the council shall not serve more than two (2) consecutive terms.
13 Appointees after May 30, 1997, who previously served on the Council of Higher
14 Education may serve two (2) additional full consecutive terms.
- 15 ➔Section 8. KRS 164.321 is amended to read as follows:
- 16 (1) Eastern Kentucky University, Morehead State University, Murray State University,
17 Western Kentucky University, Kentucky State University, Northern Kentucky
18 University, *the University of Pikeville*, and the Kentucky Community and Technical
19 College System shall each be governed by a board of regents appointed for a term
20 set by law pursuant to Section 23 of the Constitution of Kentucky.
- 21 (a) Each board of the comprehensive universities shall consist of eight (8)
22 members appointed by the Governor, one (1) member of the teaching faculty,
23 one (1) member of the university nonteaching personnel, and one (1) member
24 of the student body of the respective university or college. The members of the
25 board shall select a chairperson annually.
- 26 (b) The board of the Kentucky Community and Technical College System shall
27 consist of eight (8) members appointed by the Governor, two (2) members of

1 the teaching faculty, two (2) members of the nonteaching personnel, and two
2 (2) members of the student body.

3 1. No more than three (3) appointed members of the board shall reside in
4 any one (1) judicial district of the Kentucky Supreme Court as of the
5 date of the appointment.

6 2. A change in residency of a gubernatorial appointee after the date of
7 appointment shall not affect the appointee's ability to serve or eligibility
8 for reappointment, except an appointee who assumes residency outside
9 the fifty (50) United States shall become immediately ineligible to serve.
10 The Council on Postsecondary Education shall notify the appointee of
11 his or her ineligibility to serve.

12 3. In making initial appointments, the Governor shall act so as to provide
13 equal representation of the two (2) sexes. In filling vacancies, the
14 Governor shall act so as to provide, inasmuch as possible, equal
15 representation of the two (2) sexes by appointing a member of the sex
16 that is the lesser represented at the time of the appointment. If the
17 remaining membership already has an equal number of males and
18 females, the Governor may appoint a member of either sex.

19 (2) The terms of appointed members shall be for six (6) years and until their successors
20 are appointed and qualified, except the initial appointments to the board of regents
21 for the Kentucky Community and Technical College System shall be as follows:

- 22 (a) One (1) member shall serve a one (1) year term;
- 23 (b) One (1) member shall serve a two (2) year term;
- 24 (c) Two (2) members shall serve three (3) year terms;
- 25 (d) One (1) member shall serve a four (4) year term;
- 26 (e) One (1) member shall serve a five (5) year term; and
- 27 (f) Two (2) members shall serve six (6) year terms.

1 New appointees of a board of regents shall not serve for more than two (2)
2 consecutive terms. Board members serving as of May 30, 1997, may be reappointed
3 at the end of their existing terms and may serve two (2) additional full consecutive
4 terms.

5 (3) The gubernatorial appointments may include one (1) graduate of the respective
6 institution who resides outside the Commonwealth. Not more than two (2)
7 appointed members of any board shall be residents of one (1) county. The
8 appointments shall reflect the proportional representation of the two (2) leading
9 political parties of the Commonwealth based on the state's voter registration.
10 Membership on the board shall reflect no less than proportional representation of
11 the minority racial composition of the Commonwealth. Membership on the board
12 shall not be incompatible with any state office. A change in residency after the date
13 of appointment shall not affect a member's ability to serve nor shall it prevent a
14 member's eligibility for reappointment, except a member who assumes residency
15 outside the fifty (50) United States shall become immediately ineligible to serve.
16 The Council on Postsecondary Education shall notify the appointee of his or her
17 ineligibility to serve.

18 (4) Appointments to fill vacancies shall be made in the same manner and within the
19 same time after the occurrence of the vacancy as regular appointments. The person
20 appointed shall hold the position for the unexpired term only.

21 (5) Each member of the board shall serve for the term for which the member is
22 appointed and until a successor is appointed and qualified.

23 (6) (a) The faculty member of a comprehensive university shall be a teaching or
24 research member of the faculty of his or her respective university of the rank
25 of assistant professor or above. The faculty member shall be elected by secret
26 ballot by all faculty members of his or her university of the rank of instructor,
27 assistant professor, or above. The faculty member shall serve for a term of

1 three (3) years and until his successor is elected and qualified. The faculty
2 member shall be eligible for reelection, but he or she shall not be eligible to
3 continue to serve as a member of the board if he or she ceases being a member
4 of the teaching staff of the university. Elections to fill vacancies shall be for
5 the unexpired term in the same manner as provided for the original election.

6 (b) The faculty members of the Kentucky Community and Technical College
7 System shall be represented by one (1) faculty member elected from the
8 community colleges and one (1) faculty member elected from the technical
9 institutions to serve three (3) year terms and until their successors are named.
10 The faculty representative of each branch shall be elected by means of a
11 process established by the board. The faculty members may be reelected but
12 shall not serve more than two (2) consecutive terms. A faculty member shall
13 be ineligible to continue to serve as a member of the board if he or she ceases
14 to be a member of the faculty at one (1) of the institutions within the system.
15 Elections to fill vacancies shall be for the unexpired term in the same manner
16 as provided for the original election. These two (2) members shall collectively
17 have one (1) vote which may be cast one-half (1/2) vote by each member.

18 (7) (a) The nonteaching personnel member in a comprehensive university shall be
19 any full-time staff member excluding the president, vice presidents, academic
20 deans, and academic department chairpersons. He or she shall represent all
21 nonteaching university employees including, but not limited to, building
22 facilities and clerical personnel. The member shall be elected by secret ballot
23 by the nonteaching employees. The nonteaching personnel member shall serve
24 a term of three (3) years and until a successor is elected and qualified. The
25 nonteaching personnel member shall be eligible for reelection, but he or she
26 shall not be eligible to continue to serve as a member of the board if he or she
27 ceases being an employee of the university. Elections to fill vacancies shall be

1 for the unexpired term in the same manner as provided for the original
2 election.

3 (b) The nonteaching personnel members in the Kentucky Community and
4 Technical College System shall be any full-time staff member excluding a
5 president, chancellor, vice president, academic dean, academic department
6 chair, or other administrator. They shall represent all nonteaching employees
7 in their respective branch institutions including, but not limited to, support
8 and clerical personnel. One (1) member shall be a representative from the
9 community colleges and one (1) member shall be a representative from the
10 technical institutions. They shall serve three (3) year terms and until their
11 successors are named. These two (2) members shall collectively have one (1)
12 vote which may be cast one-half (1/2) vote by each member. The nonteaching
13 personnel members of each branch shall be elected by means of a process
14 established by the board. A nonteaching personnel member may be reelected
15 but shall not serve more than two (2) consecutive terms. A nonteaching
16 employee shall be ineligible to continue to serve as a member of the board if
17 that employee ceases to be a nonteaching employee at one (1) of the
18 institutions within the system. Elections to fill vacancies shall be for the
19 unexpired term in the same manner as provided for the original election.

20 (8) (a) The student member on a comprehensive university board shall be the
21 president of the student body of the university during the appropriate
22 academic year and may be an out-of-state resident if applicable. If the student
23 member does not maintain his or her position as student body president or
24 status as a full-time student at any time during that academic year, a special
25 election shall be held to select a full-time student member. The student
26 member shall serve for a term of one (1) year beginning with the first meeting
27 of the fiscal year which contains that academic year.

1 (b) Two (2) full-time student members shall be elected to the board of regents for
2 the Kentucky Community and Technical College System. One (1) shall
3 represent students of the community colleges and one (1) shall represent the
4 technical institutions. The student members shall be elected by means of a
5 process established by the board. The student members shall serve one (1)
6 year terms beginning with the first meeting of the fiscal year that contains the
7 academic year. If the student member does not maintain his or her status as a
8 full-time student, a special election shall be held to fill the vacancy. The two
9 (2) members shall collectively have one (1) vote which may be cast one-half
10 (1/2) vote by each member.

11 (9) All persons appointed after May 30, 1997, shall be required to attend and complete
12 an orientation program prescribed by the council under KRS 164.020, as a condition
13 of their service.

14 (10) Board members may be removed by the Governor for cause, which shall include
15 neglect of duty or malfeasance in office, after being afforded a hearing with counsel
16 before the Council on Postsecondary Education and a finding of fact by the council.

17 ➔Section 9. KRS 164.365 is amended to read as follows:

18 (1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the
19 power over and control of appointments, qualifications, salaries, and compensation
20 payable out of the State Treasury or otherwise, promotions, and official relations of
21 all employees of Eastern Kentucky University, Western Kentucky University,
22 Murray State University, Northern Kentucky University, *the University of Pikeville,*
23 and Morehead State University, as provided in KRS 164.350 and 164.360, and of
24 Kentucky State University and the Kentucky Community and Technical College
25 System, shall be under the exclusive jurisdiction of the respective governing boards
26 of each of the institutions named.

27 (2) The board of regents for the Kentucky Community and Technical College System

1 shall develop personnel rules for the governing of its members, officers, agents, and
 2 employees by June 30, 1998. The board shall adopt interim policies to govern
 3 employees hired from July 1, 1997, until the permanent rules are adopted.

- 4 (3) Upon receipt of a written authorization from an employee of the Kentucky
 5 Community and Technical College System, the board shall deduct dues from the
 6 employee's paycheck for employee membership organizations. Dues shall be
 7 deducted at a rate established by the organization, and shall be discontinued upon
 8 written notification by an employee to both the system and the employee
 9 organization. On a quarterly basis, the Kentucky Community and Technical College
 10 System shall provide to each employee membership organization an updated list
 11 that includes the names and home addresses of the employees who are having dues
 12 deducted from their paychecks for the purpose of maintaining membership in that
 13 organization.

14 ➔Section 10. KRS 158.842 is amended to read as follows:

- 15 (1) As used in KRS 158.840 to 158.844, unless the context requires otherwise:
- 16 (a) "Concepts" means mathematical ideas that serve as the basis for
 17 understanding mathematics;
- 18 (b) "Mathematics" means the curriculum of numbers and computations, geometry
 19 and measurements, probability and statistics, and algebraic ideas;
- 20 (c) "Mathematics coach" means a mathematics leader whose primary
 21 responsibility is to provide ongoing support for one (1) or more mathematics
 22 teachers. The role of the coach is to improve mathematics teaching practices
 23 by working with teachers in their classrooms, observing and providing
 24 feedback to them, modeling appropriate teaching practices, conducting
 25 workshops or institutes, establishing learning communities, and gathering
 26 appropriate and useful resources;
- 27 (d) "Mathematics diagnostic assessment" means an assessment that identifies a

- 1 student at risk of failure in mathematics or a student with major deficits in
 2 numeracy and other mathematical concepts and skills;
- 3 (e) "Mathematics intervention program" means an intensive instructional program
 4 that is based on valid research and is provided by a highly trained teacher to
 5 specifically meet individual students needs;
- 6 (f) "Mathematics leader" means any educator with a specialization in
 7 mathematics who:
- 8 1. Serves in a supervisory capacity, such as mathematics department chair,
 9 school-based mathematics specialist, or district mathematics supervisor
 10 or coordinator; or
 - 11 2. Regularly conducts or facilitates teacher professional development, such
 12 as higher education faculty or other mathematics teachers;
- 13 (g) "Mathematics mentor" means an experienced mathematics coach who
 14 typically works with beginning or novice teachers only. The responsibilities
 15 and roles of the mentor are the same as those of the coach;
- 16 (h) "Numeracy" means the development of the basic concepts which include
 17 counting, place value, addition and subtraction strategies, multiplication and
 18 division strategies, and the concepts of time, money, and length. To be
 19 numerate is to have and be able to use appropriate mathematical knowledge,
 20 concepts, skills, intuition, and experience in relationship to every day life;
- 21 (i) "Relationships" means connections of mathematical concepts and skills within
 22 mathematics; and
- 23 (j) "Skills" means actions of mathematics.
- 24 (2) The Committee for Mathematics Achievement is hereby created for the purposes of
 25 developing a multifaceted strategic plan to improve student achievement in
 26 mathematics at all levels of schooling, prekindergarten through postsecondary and
 27 adult. At a minimum the plan shall address:

- 1 (a) Challenging curriculum that is aligned prekindergarten through postsecondary,
2 including consensus among high school teachers and postsecondary education
3 faculty about expectations, curriculum, and assessment;
- 4 (b) Attitudes and beliefs of teachers about mathematics;
- 5 (c) Teachers' knowledge of mathematics;
- 6 (d) Diagnostic assessment, intervention services, and instructional strategies;
- 7 (e) Shortages of teachers of mathematics, including incentives to attract strong
8 candidates to mathematics teaching;
- 9 (f) Statewide institutes that prepare cadres of mathematics leaders in local school
10 districts, which may include highly skilled retired mathematics teachers, to
11 serve as coaches and mentors in districts and schools;
- 12 (g) Cohesive continuing education options for experienced mathematics
13 classroom teachers;
- 14 (h) Closing the student achievement gap among various student subpopulations;
- 15 (i) Curriculum expectations and assessments of students among the various
16 school levels, prekindergarten, primary, elementary, middle, and high school;
- 17 (j) Content standards for adult education centers providing mathematics
18 curricula;
- 19 (k) Introductory postsecondary education mathematics courses that are
20 appropriate to the wide array of academic programs and majors;
- 21 (l) Research to analyze further the issues of transition from high school or GED
22 programs to postsecondary education mathematics; and
- 23 (m) The early mathematics testing program under KRS 158.803.
- 24 Other factors may be included in the strategic plan as deemed appropriate by the
25 committee to improve mathematics achievement of Kentucky students.
- 26 (3) In carrying out its responsibility under subsection (2)(f) of this section, the
27 committee shall:

1 (a) Design a statewide professional development program that includes summer
2 mathematics institutes at colleges and universities, follow-up, and school-
3 based support services, beginning no later than June 1, 2006, to prepare teams
4 of teachers as coaches and mentors of mathematics at all school levels to
5 improve student achievement. Teachers shall receive training in diagnostic
6 assessment and intervention. The statewide initiative shall be funded, based
7 on available funds, from the Teachers' Professional Growth Fund described in
8 KRS 156.553. The design shall:

- 9 1. Define the curricula focus;
- 10 2. Build on the expertise of specific colleges and universities;
- 11 3. Place emphasis on mathematics concepts, skills and relationships,
12 diagnostic assessment, intervention services, and instructional strategies;
- 13 4. Identify quality control measures for the delivery of each institute;
- 14 5. Establish evaluation procedures for the summer institutes and the other
15 professional development components;
- 16 6. Provide updates and networking opportunities for coaches and mentors
17 throughout the school year; and
- 18 7. Define other components within the initiative that are necessary to meet
19 the goal of increasing student achievement in mathematics;

20 (b) Require schools and districts approved to have participants in the mathematics
21 leader institutes to provide assurances that:

- 22 1. The district and schools have, or will develop, local mathematics
23 curricula and assessments that align with state standards for
24 mathematics;
- 25 2. There is a local commitment to build a cadre of mathematics leaders
26 within the district;
- 27 3. The district and participating schools will provide in-school support for

- 1 coaching and mentoring activities;
- 2 4. The mathematics teachers are willing to develop classroom assessments
- 3 that align with state assessments; and
- 4 5. Students who need modified instructional and intervention services will
- 5 have opportunity for continuing education services beyond the regular
- 6 school day, week, or year; and
- 7 (c) In addition to the conditions specified in paragraph (b) of this subsection, the
- 8 committee shall make recommendations to the Kentucky Department of
- 9 Education and the Kentucky Board of Education for criteria to be included in
- 10 administrative regulations promulgated by the board which define:
- 11 1. Eligible grant recipients, taking into consideration how this program
- 12 relates to other funded mathematics initiatives;
- 13 2. The application process and review;
- 14 3. The responsibilities of schools and districts, including but not limited to
- 15 matching funds requirements, released or extended time for coaches and
- 16 mentors during the school year, continuing education requirements for
- 17 teachers and administrators in participating schools, data to be collected,
- 18 and local evaluation requirements; and
- 19 4. Other recommendations requested by the Kentucky Department of
- 20 Education.
- 21 (4) The committee shall initially be composed of twenty-five (25) members as follows:
- 22 (a) The commissioner of education or his or her designee;
- 23 (b) The president of the Council on Postsecondary Education or his or her
- 24 designee;
- 25 (c) The president of the Association of Independent Kentucky Colleges and
- 26 Universities or his or her designee;
- 27 (d) The executive director of the Education Professional Standards Board or his

1 or her designee;

2 (e) The secretary of the Education and Workforce Development Cabinet or his or
3 her designee;

4 (f) A representative with a specialty in mathematics or mathematics education
5 who has expertise and experience in professional development, especially
6 with coaching and mentoring of teachers, from each of the ten (10)~~nine (9)~~
7 public postsecondary education institutions defined in KRS 164.001. The
8 representatives shall be selected by mutual agreement of the president of the
9 Council on Postsecondary Education and the commissioner of education;

10 (g) Two (2) adult education instructors selected by the vice president for
11 Kentucky Adult Education;

12 (h) Two (2) elementary, two (2) middle, and two (2) high school mathematics
13 teachers, appointed by the board of the statewide professional education
14 association having the largest paid membership with approval from their
15 respective local principals and superintendents of schools; and

16 (i) Three (3) school administrators, with one (1) each representing elementary,
17 middle, and high school, appointed by the board of the statewide
18 administrators' association having the largest paid membership with approval
19 from their respective local superintendents of schools.

20 When the Center for Mathematics created under KRS 164.525 becomes operational,
21 the executive director of the center shall be added to the committee, which shall
22 then be composed of twenty-six (26) members. Appointments to the committee
23 shall be made no later than thirty (30) days following March 18, 2005, and the first
24 meeting of the committee shall occur no later than thirty (30) days following
25 appointment of the members.

26 (5) A majority of the full membership shall constitute a quorum.

27 (6) Each member of the committee, other than members who serve by virtue of their

1 positions, shall serve for a term of three (3) years or until a successor is appointed
2 and qualified, except that the initial appointments shall be made in the following
3 manner: six (6) members shall serve a one (1) year term, six (6) members shall
4 serve a two (2) year term, and eight (8) members shall serve a three (3) year term.

5 (7) A temporary chair of the committee shall be appointed prior to the first meeting of
6 the committee through consensus of the president of the Council on Postsecondary
7 Education and the commissioner of education, to serve ninety (90) days after his or
8 her appointment. Prior to the end of the ninety (90) days, the committee shall elect a
9 chair by majority vote. The temporary chair may be a nominee for the chair by
10 majority vote. Thereafter, a chair shall be elected each calendar year. An individual
11 may not serve as chair for more than three (3) consecutive years. The chair shall be
12 the presiding officer of the committee, and coordinate the functions and activities of
13 the committee.

14 (8) The committee shall be attached to the Kentucky Department of Education for
15 administrative purposes. The commissioner of education may contract with a
16 mathematics-trained professional to provide part-time staff support to the
17 committee. The commissioner of education and the president of the council shall
18 reach consensus in the selection of a person to fill the position. The person selected
19 shall have a graduate degree, a mathematics major, and teaching or administrative
20 experience in elementary and secondary education. The person shall not be a current
21 employee of any entity represented on the committee. The department shall provide
22 office space and other resources necessary to support the staff position and the work
23 of the committee.

24 (9) The committee, under the leadership of the chair, may organize itself into
25 appropriate subcommittees and work structures to accomplish the purposes of the
26 committee.

27 (10) Members of the committee shall serve without compensation but shall be

1 reimbursed for necessary travel and expenses while attending meetings at the same
2 per diem rate promulgated in administrative regulation for state employees under
3 provisions of KRS Chapter 45. Funds shall be provided school districts to cover the
4 cost of substitute teachers for those teachers on the committee at each district's
5 established rate for substitute teachers.

6 (11) If a vacancy occurs within the committee during its duration, the board of the
7 statewide professional education association having the largest paid membership or
8 the board of the statewide administrators association having the largest paid
9 membership or the president of the Council on Postsecondary Education, as
10 appropriate, shall appoint a person to fill the vacancy.

11 (12) The committee shall:

12 (a) Present a draft strategic plan addressing the requirements in subsection (1) of
13 this section and other issues that arose during the work of the committee to the
14 Education Assessment and Accountability Review Subcommittee no later than
15 August 2005;

16 (b) Present the strategic plan for improving mathematics achievement to the
17 Interim Joint Committee on Education by July 15, 2006, which shall include
18 any recommendations that require legislative action; and

19 (c) Provide a final written report of committee activities to the Interim Joint
20 Committee on Education and the Legislative Research Commission by
21 December 1, 2006.

22 (13) The committee shall have ongoing responsibility for providing advice and guidance
23 to policymakers in the development of statewide policies and in the identification
24 and allocation of resources to improve mathematics achievement. In carrying out
25 this responsibility, the committee shall periodically review the strategic plan and
26 make modifications as deemed appropriate and report those to the Interim Joint
27 Committee on Education.

1 (14) The committee shall collaborate with the Center for Mathematics to ensure that
2 there is ongoing identification of research-based intervention programs for K-12
3 students who have fallen behind in mathematics, rigorous mathematics curricula
4 that prepare students for the next level of schooling, research-based professional
5 development models that prepare teachers in mathematics and pedagogy, and
6 strategies for closing the gap between high school or GED and postsecondary
7 mathematics preparation.

8 ➔Section 11. KRS 164.800 is amended to read as follows:

9 (1) The Commonwealth Virtual University shall be the academic programs made
10 available to the citizens of the Commonwealth through the use of modern methods
11 of communications and information dissemination as determined by the Council on
12 Postsecondary Education after consideration of the recommendations of the
13 Distance Learning Advisory Committee and the needs expressed by the regional
14 advisory groups.

15 (2) The council shall establish a Distance Learning Advisory Committee to advise the
16 council on matters relating to the Commonwealth Virtual University. The members
17 of the advisory committee shall include the presidents of each of the ~~ten (10)~~^{ten (10)}
18 ~~(9)~~ state postsecondary education institutions, the executive director of the
19 Kentucky Educational Television Network, a representative of the Association of
20 Independent Kentucky Colleges and Universities, and other representatives as the
21 council deems appropriate. The committee shall elect its chair and other officers as
22 it deems necessary.

23 (3) The council, after receiving the recommendations of the Distance Learning
24 Advisory Committee, shall establish policies to control and promote the use of
25 distance learning systems to be used by the Commonwealth Virtual University to
26 increase the availability of all postsecondary education programs throughout the
27 state in the most efficient manner. The comprehensive universities shall be the

1 primary developers and deliverers of baccalaureate and master's degree programs to
 2 be delivered by the Commonwealth Virtual University; however, this does not
 3 preclude the University of Kentucky, the University of Louisville, or independent
 4 colleges from offering baccalaureate and master's degree programs or other course
 5 offerings, and community colleges and technical institutions from offering associate
 6 and technical degree programs or other courses through the Commonwealth Virtual
 7 University.

- 8 (4) The council shall determine the allocation of tuition, course offerings, source of
 9 courses, technology to be used, and other matters relating to the use of distance
 10 learning to promote education through the Commonwealth Virtual University.

11 ➔Section 12. KRS 161.220 is amended to read as follows:

12 As used in KRS 161.220 to 161.716 and 161.990:

- 13 (1) "Retirement system" means the arrangement provided for in KRS 161.220 to
 14 161.716 and 161.990 for payment of allowances to members;
- 15 (2) "Retirement allowance" means the amount annually payable during the course of his
 16 natural life to a member who has been retired by reason of service;
- 17 (3) "Disability allowance" means the amount annually payable to a member retired by
 18 reason of disability;
- 19 (4) "Member" means the commissioner of education, deputy commissioners, associate
 20 commissioners, and all division directors in the State Department of Education,
 21 employees participating in the system pursuant to KRS 196.167(3)(b)1., and any
 22 full-time teacher or professional occupying a position requiring certification or
 23 graduation from a four (4) year college or university, as a condition of employment,
 24 and who is employed by public boards, institutions, or agencies as follows:
- 25 (a) Local boards of education;
- 26 (b) Eastern Kentucky University, Kentucky State University, Morehead State
 27 University, Murray State University, Western Kentucky University, *the*

- 1 University of Pikeville, and any community colleges established under the
2 control of these universities;
- 3 (c) State-operated secondary area vocational education or area technology centers,
4 Kentucky School for the Blind, and Kentucky School for the Deaf;
- 5 (d) The Education Professional Standards Board, other public education agencies
6 as created by the General Assembly, and those members of the administrative
7 staff of the Teachers' Retirement System of the State of Kentucky whom the
8 board of trustees may designate by administrative regulation;
- 9 (e) Regional cooperative organizations formed by local boards of education or
10 other public educational institutions listed in this subsection, for the purpose
11 of providing educational services to the participating organizations;
- 12 (f) All full-time members of the staffs of the Kentucky Association of School
13 Administrators, Kentucky Education Association, Kentucky Vocational
14 Association, Kentucky High School Athletic Association, Kentucky Academic
15 Association, and the Kentucky School Boards Association who were members
16 of the Kentucky Teachers' Retirement System or were qualified for a position
17 covered by the system at the time of employment by the association in the
18 event that the board of directors of the respective association petitions to be
19 included. The board of trustees of the Kentucky Teachers' Retirement System
20 may designate by resolution whether part-time employees of the petitioning
21 association are to be included. The state shall make no contributions on
22 account of these employees, either full-time or part-time. The association shall
23 make the employer's contributions, including any contribution that is specified
24 under KRS 161.550. The provisions of this paragraph shall be applicable to
25 persons in the employ of the associations on or subsequent to July 1, 1972;
- 26 (g) Employees of the Council on Postsecondary Education who were employees
27 of the Department for Adult Education and Literacy and who were members

- 1 of the Kentucky Teachers' Retirement System at the time the department was
2 transferred to the council pursuant to Executive Order 2003-600;
- 3 (h) The Office of Career and Technical Education, except that the executive
4 director shall not be a member;
- 5 (i) The Office of Vocational Rehabilitation;
- 6 (j) The Kentucky Educational Collaborative for State Agency Children;
- 7 (k) The Governor's Scholars Program;
- 8 (l) Any person who is retired for service from the retirement system and is
9 reemployed by an employer identified in this subsection in a position that the
10 board of trustees deems to be a member;
- 11 (m) Employees of the former Cabinet for Workforce Development who are
12 transferred to the Kentucky Community and Technical College System and
13 who occupy positions covered by the Kentucky Teachers' Retirement System
14 shall remain in the Teachers' Retirement System. New employees occupying
15 these positions, as well as newly created positions qualifying for Teachers'
16 Retirement System coverage that would have previously been included in the
17 former Cabinet for Workforce Development, shall be members of the
18 Teachers' Retirement System;
- 19 (n) Effective January 1, 1998, employees of state community colleges who are
20 transferred to the Kentucky Community and Technical College System shall
21 continue to participate in federal old age, survivors, disability, and hospital
22 insurance, and a retirement plan other than the Kentucky Teachers' Retirement
23 System offered by Kentucky Community and Technical College System. New
24 employees occupying positions in the Kentucky Community and Technical
25 College System as referenced in KRS 164.5807(5) that would not have
26 previously been included in the former Cabinet for Workforce Development,
27 shall participate in federal old age, survivors, disability, and hospital insurance

1 and have a choice at the time of employment of participating in a retirement
2 plan provided by the Kentucky Community and Technical College System,
3 including participation in the Kentucky Teachers' Retirement System, on the
4 same basis as faculty of the state universities as provided in KRS 161.540 and
5 161.620;

6 (o) Employees of the Office of General Counsel, the Office of Budget and
7 Administrative Services, and the Office of Quality and Human Resources
8 within the Office of the Secretary of the former Cabinet for Workforce
9 Development and the commissioners of the former Department for Adult
10 Education and Literacy and the former Department for Technical Education
11 who were contributing to the Kentucky Teachers' Retirement System as of
12 July 15, 2000; and

13 (p) Employees of the Kentucky Department of Education only who are graduates
14 of a four (4) year college or university, notwithstanding a substitution clause
15 within a job classification, and who are serving in a professional job
16 classification as defined by the department.

17 (5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940,
18 and became a member of the retirement system created by 1938 (1st Extra. Sess.)
19 Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year
20 after that date, and any teacher who was a member of a local teacher retirement
21 system in the public elementary or secondary schools of the state on or before July
22 1, 1940, and continued to be a member of the system until he, with the membership
23 of the local retirement system, became a member of the state Teachers' Retirement
24 System or who becomes a member under the provisions of KRS 161.470(4);

25 (6) "New teacher" means any member not a present teacher;

26 (7) "Prior service" means the number of years during which the member was a teacher
27 in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior

1 service shall be allowed or credited to any teacher;

2 (8) "Subsequent service" means the number of years during which the teacher is a
3 member of the Teachers' Retirement System after July 1, 1941;

4 (9) "Final average salary" means the average of the five (5) highest annual salaries
5 which the member has received for service in a covered position and on which the
6 member has made contributions, or on which the public board, institution, or
7 agency has picked-up member contributions pursuant to KRS 161.540(2), or the
8 average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a),
9 which shall include picked-up member contributions. Additionally, the board of
10 trustees may approve a final average salary based upon the average of the three (3)
11 highest salaries for members who are at least fifty-five (55) years of age and have a
12 minimum of twenty-seven (27) years of Kentucky service credit. However, if any of
13 the five (5) or three (3) highest annual salaries used to calculate the final average
14 salary was paid within the three (3) years immediately prior to the date of the
15 member's retirement, the amount of salary to be included for each of those three (3)
16 years for the purpose of calculating the final average salary shall be limited to the
17 lesser of:

18 (a) The member's actual salary; or

19 (b) The member's annual salary that was used for retirement purposes during each
20 of the prior three (3) years, plus a percentage increase equal to the percentage
21 increase received by all other members employed by the public board,
22 institution, or agency, or for members of school districts, the highest
23 percentage increase received by members on any one (1) rank and step of the
24 salary schedule of the school district. The increase shall be computed on the
25 salary that was used for retirement purposes.

26 This limitation shall not apply if the member receives an increase in salary in a
27 percentage exceeding that received by the other members, and this increase was

1 accompanied by a corresponding change in position or in length of employment.
2 This limitation shall also not apply to the payment to a member for accrued annual
3 leave if the individual becomes a member before July 1, 2008, or accrued sick leave
4 which is authorized by statute and which shall be included as part of a retiring
5 member's annual compensation for the member's last year of active service;

6 (10) "Annual compensation" means the total salary received by a member as
7 compensation for all services performed in employment covered by the retirement
8 system during a fiscal year. Annual compensation shall not include payment for any
9 benefit or salary adjustments made by the public board, institution, or agency to the
10 member or on behalf of the member which is not available as a benefit or salary
11 adjustment to other members employed by that public board, institution, or agency.
12 Annual compensation shall not include the salary supplement received by a member
13 under KRS 157.197(2)(c), 158.6455, or 158.782 on or after July 1, 1996. Under no
14 circumstances shall annual compensation include compensation that is earned by a
15 member while on assignment to an organization or agency that is not a public board,
16 institution, or agency listed in subsection (4) of this section. In the event that federal
17 law requires that a member continue membership in the retirement system even
18 though the member is on assignment to an organization or agency that is not a
19 public board, institution, or agency listed in subsection (4) of this section, the
20 member's annual compensation for retirement purposes shall be deemed to be the
21 annual compensation, as limited by subsection (9) of this section, last earned by the
22 member while still employed solely by and providing services directly to a public
23 board, institution, or agency listed in subsection (4) of this section. The board of
24 trustees shall determine if any benefit or salary adjustment qualifies as annual
25 compensation. For an individual who becomes a member on or after July 1, 2008,
26 annual compensation shall not include lump-sum payments upon termination of
27 employment for accumulated annual or compensatory leave;

- 1 (11) "Age of member" means the age attained on the first day of the month immediately
2 following the birthdate of the member. This definition is limited to retirement
3 eligibility and does not apply to tenure of members;
- 4 (12) "Employ," and derivatives thereof, means relationships under which an individual
5 provides services to an employer as an employee, as an independent contractor, as
6 an employee of a third party, or under any other arrangement as long as the services
7 provided to the employer are provided in a position that would otherwise be covered
8 by the Kentucky Teachers' Retirement System and as long as the services are being
9 provided to a public board, institution, or agency listed in subsection (4) of this
10 section;
- 11 (13) "Regular interest" means interest at three percent (3%) per annum, except for an
12 individual who becomes a member on or after July 1, 2008, "regular interest" means
13 interest at two and one-half percent (2.5%) per annum for purposes of crediting
14 interest to the teacher savings account or any other contributions made by the
15 employee that are refundable to the employee upon termination of employment;
- 16 (14) "Accumulated contributions" means the contributions of a member to the teachers'
17 savings fund, including picked-up member contributions as described in KRS
18 161.540(2), plus accrued regular interest;
- 19 (15) "Annuitant" means a person who receives a retirement allowance or a disability
20 allowance;
- 21 (16) "Local retirement system" means any teacher retirement or annuity system created
22 in any public school district in Kentucky in accordance with the laws of Kentucky;
- 23 (17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The
24 retirement plan year is concurrent with this fiscal year. A contract for a member
25 employed by a local board of education may not exceed two hundred sixty-one
26 (261) days in the fiscal year;
- 27 (18) "Public schools" means the schools and other institutions mentioned in subsection

- 1 (4) of this section;
- 2 (19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was
3 receiving, at the time of death of the member, at least one-half (1/2) of the support
4 from the member for maintenance, including board, lodging, medical care, and
5 related costs;
- 6 (20) "Active contributing member" means a member currently making contributions to
7 the Teachers' Retirement System, who made contributions in the next preceding
8 fiscal year, for whom picked-up member contributions are currently being made, or
9 for whom these contributions were made in the next preceding fiscal year;
- 10 (21) "Full-time" means employment in a position that requires services on a continuing
11 basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year
12 basis;
- 13 (22) "Full actuarial cost," when used to determine the payment that a member must pay
14 for service credit means the actuarial value of all costs associated with the
15 enhancement of a member's benefits or eligibility for benefit enhancements,
16 including health insurance supplement payments made by the retirement system.
17 The actuary for the retirement system shall determine the full actuarial value costs
18 and actuarial cost factor tables as provided in KRS 161.400;
- 19 (23) "Last annual compensation" means the annual compensation, as defined by
20 subsection (10) of this section and as limited by subsection (9) of this section,
21 earned by the member during the most recent period of contributing service, either
22 consecutive or nonconsecutive, that is sufficient to provide the member with one (1)
23 full year of service credit in the Kentucky Teachers' Retirement System, and which
24 compensation is used in calculating the member's initial retirement allowance,
25 excluding bonuses, retirement incentives, payments for accumulated sick, annual,
26 personal and compensatory leave, and any other lump-sum payment. For an
27 individual who becomes a member on or after July 1, 2008, payments for annual or

1 compensatory leave shall not be included in determining the member's last annual
2 compensation;

3 (24) "Participant" means a member, as defined by subsection (4) of this section, or an
4 annuitant, as defined by subsection (15) of this section;

5 (25) "Qualified domestic relations order" means any judgment, decree, or order,
6 including approval of a property settlement agreement, that:

7 (a) Is issued by a court or administrative agency; and

8 (b) Relates to the provision of child support, alimony payments, or marital
9 property rights to an alternate payee; and

10 (26) "Alternate payee" means a spouse, former spouse, child, or other dependent of a
11 participant, who is designated to be paid retirement benefits in a qualified domestic
12 relations order.