State of Tennessee

PUBLIC CHAPTER NO. 869

HOUSE BILL NO. 2578

By Representatives McCormick, Williams, Johnson, Gilmore, Ragan, Cameron Sexton

Substituted for: Senate Bill No. 2569

By Senators Norris, Bailey

AN ACT to amend Tennessee Code Annotated, Section 12-3-102; Title 49, Chapter 7; Title 49, Chapter 8 and Title 49, Chapter 9, relative to the structure and organization of state higher education.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-8-101, is amended by deleting subsections (a) and (b) and substituting instead the following language:

(a)

(1) There is established a state university and community college system, to be called the board of regents. The state university and community college system is composed of state universities, community colleges, and state colleges of applied technology.

(2)

(A) The board of regents state universities shall be composed of Austin Peay State University, East Tennessee State University, Middle Tennessee State University, Tennessee State University, Tennessee Technological University, and the University of Memphis. The board of regents state universities shall be subject to the authority of a local governing board of trustees, referred to in this chapter as a state university board.

(B) The management and governance of each state university shall be vested in the institution's respective state university board, subject to certain powers and duties maintained by the Tennessee higher education commission.

(C) During a transition period commencing July 1, 2016, and ending November 30, 2017, the board of regents shall maintain performance of the following functions on behalf of the state university boards: data systems, capital project planning and management, and procurement. By November 30, 2017, the Tennessee higher education commission shall solicit and receive requests from the state university boards to assume the performance of these functions. The Tennessee higher education commission shall approve or deny a state university board's request to assume these functions. A state university board shall not be permitted to assume the performance of these functions until November 30, 2017. If the board of regents continues to perform the functions related to data systems, capital project planning and management, and procurement after the transition period has concluded, a state university board is not precluded from requesting to assume the performance of these functions at any time after November 30, 2017.

(3)

(A) The state community colleges shall be composed of Chattanooga State Community College, Cleveland State Community

College, Columbia State Community College, Dyersburg State Community College, Jackson State Community College, Motlow State Community College, Nashville State Community College, Northeast State Community College, Pellissippi State Community College, Roane State Community College, Southwest Tennessee Community College, Volunteer State Community College, and Walters State Community College, and other community colleges that may be established. The statewide system of state colleges of applied technology, established under chapter 11, part 4, of this title, shall be composed of the state colleges of applied technology now established and located at Athens, Covington, Crossville, Crump, Dickson, Elizabethton, Harriman, Hartsville, Hohenwald, Jacksboro, Jackson, Knoxville, Livingston, McKenzie, McMinnville, Memphis, Morristown, Murfreesboro, Nashville, Newbern, Oneida, Paris, Pulaski, Ripley, Shelbyville, and Whiteville, and other state colleges of applied technology that may be established.

(B) Subject to certain powers and duties reserved for and relegated to the Tennessee higher education commission, the government, management, and control of the state community colleges and the state colleges of applied technology shall be vested in the board of regents.

(b) The board of regents shall work collaboratively with state university boards to ensure alignment between community colleges and state universities, especially in regards to innovation and student success initiatives.

SECTION 2. Tennessee Code Annotated, Section 49-8-101, is further amended by adding the following language as new, appropriately designated subsections:

(d) All institutions in the state university and community college system shall submit annually institutional mission statements to the Tennessee higher education commission for review and approval. An institutional mission statement shall:

(1) Characterize distinctiveness in degree offerings by level, focus, and student characteristics, including, but not limited to, nontraditional students and part-time students; and

(2) Address institutional accountability for the quality of instruction, student learning, and, when applicable, research and public service to benefit Tennessee citizens.

(e) Nothing contained in this section shall prohibit any institution from pursuing research and related activities that are consistent with the institution's mission.

SECTION 3. Tennessee Code Annotated, Title 49, Chapter 9, Part 2, is amended by adding the following language as a new, appropriately designated section:

All institutions governed by the board of trustees of the University of Tennessee shall submit annually institutional mission statements to the Tennessee higher education commission for review and approval. An institutional mission statement shall:

(1) Characterize distinctiveness in degree offerings by level, focus, and student characteristics, including, but not limited to, nontraditional students and part-time students; and

(2) Address institutional accountability for the quality of instruction, student learning, and, when applicable, research and public service to benefit Tennessee citizens.

SECTION 4. Tennessee Code Annotated, Section 49-8-102, is amended by deleting the section and substituting the following:

(a)

(1) Persons who otherwise meet admission requirements shall be admitted to a state college or university, at in-state tuition rates, if they are residents of the state, or if they are nonresidents whose bona fide place of residence is in a county of another state lying immediately adjacent to a county in this state in which the institution is situated, or if the bona fide residence is within thirty (30) miles of the institution.

(2) With respect to nonresidents, subdivision (a)(1) applies only to Austin Peay State University and the University of Memphis.

(b)

(1) Nonresidents of the state who meet the conditions for entrance to any of the institutions under the control of the board of regents or a state university board may be admitted on payment of tuition rates that the respective board prescribes.

(2) Persons who otherwise meet admissions requirements shall be admitted to Dyersburg State Community College with in-state tuition, if they are residents of the state or if they are nonresidents whose bona fide place of residence is in Mississippi County, Arkansas, or either Dunklin County or Pemiscot County, Missouri. However, those students shall not be counted in the consideration of any future capital construction.

(c) Nonresidents who otherwise meet requirements for admission to a community college shall be admitted to the institution at in-state tuition rates, subject to the following limitations:

(1) The nonresidents admitted at in-state tuition rates shall not exceed three percent (3%) of the full-time equivalent attendance of the institution;

(2) The nonresident applicant must have a bona fide place of residence in a county that is adjacent to the Tennessee state line and also within a thirty-mile radius of the city in which the institution is located as determined by the Tennessee higher education commission;

(3) The Tennessee higher education commission has the authority to determine the number of affected students, and every three (3) years an adjustment shall be made to the number of nonresident students admitted according to this subsection (c); and

(4) In the case of any question of admission between applicants who are residents of this state and applicants who are not residents of this state, the preference in admission shall be given to Tennessee residents who are equally qualified relative to nonresident applicants.

SECTION 5. Tennessee Code Annotated, Section 49-8-103, is deleted in its entirety.

SECTION 6. Tennessee Code Annotated, Section 49-8-104, is amended by deleting the section and substituting instead the following language:

(a) The board of regents and each state university board are authorized to establish from time to time reasonable and appropriate rules and policies defining residency of students, which shall be used for the purpose of determining whether or not out-of-state tuition shall be charged to a student enrolling in a state college or university subject to this chapter.

(b)

(1) The board of regents or a state university board may classify a student as a Tennessee resident and charge the student in-state tuition, if the student is a citizen of the United States, has resided in Tennessee for at least one (1) year immediately prior to admission, and has:

(A) Graduated from a Tennessee public secondary school;

(B) Graduated from a private secondary school that is located in this state; or

(C) Earned a Tennessee high school equivalency diploma.

(2) Subdivision (b)(1) shall not be construed to limit the authority of the board of regents or a state university board under subsection (a) to establish other reasonable and appropriate rules defining additional categories of residents.

SECTION 7. Tennessee Code Annotated, Section 49-8-105, is amended by deleting the section and substituting instead the following language:

(a) Any state college or university under the direction of the board of regents or a state university board is authorized to maintain a training school for grades pre-kindergarten through twelve (pre-K-12), or any combination of grades pre-kindergarten through twelve (pre-K-12), for the purpose of providing practice teaching experience for teachers in training, and the students enrolled in the school shall be taught the same course of study as prescribed by the state board of education for the public school system in grades pre-kindergarten through twelve (pre-K-12), or the grades appropriate for the particular school.

(b) Each institution, acting through its governing board, is authorized to contract with the county or city board of education in the county or city in which the college or university is located to provide for the teaching of the children of public school age in the training school, whereby the training school shall receive all state and federal funds received by the county or city board of education as a result of this contract for the operation of the school, including per capita allocations, equalization funds, capital outlay funds, textbook funds, and any other funds that may be allocated for the operation of public schools of this state. The control of the training school shall be wholly under the direction of the respective institution.

(c) It shall not be mandatory for a state college or university subject to this chapter to maintain a training school; provided, that arrangements can be established and approved by the board of regents or state university board by which practice teaching experience can be provided in the county and city school systems of the state.

(d) In the event the training school does not maintain a school for grades pre-kindergarten through twelve (pre-K-12), the contract between the board of regents or state university board and the county or city board of education shall direct the allocation of funds between the local boards of education and the training school, as the parties determine will best achieve the objective of providing practice teaching for teachers in training.

SECTION 8. Tennessee Code Annotated, Section 49-8-106, is amended by deleting the section and substituting instead the following language:

(a) The governing board of each institution subject to this chapter is authorized and empowered to establish reserve officers training corps units in any public college or university under its jurisdiction, to execute and deliver bond, with or without surety, in such manner and on such terms and conditions as may be required by the United States, for the care and safekeeping of the transportation animals, arms, ammunition, supplies, tentage, and equipment that may be necessary or desirable for the operation, conduct, and training of any reserve officers training corps units of the armed forces of the United States authorized by law at any time, to be conducted in conjunction with any public college or university under its jurisdiction.

(b) The authority delegated to a governing board in subsection (a) may, at the board's discretion, be delegated to the presidents of the several universities, colleges, and institutions, now or hereafter under its control.

(c) Nothing in § 49-3-1106 shall limit the authority conferred in this section.

(d) Under authority of this section, suits may be brought by the United States against the individual state universities or the community college system of this state.

SECTION 9. Tennessee Code Annotated, Section 49-8-107, is amended by deleting the section and substituting instead the following language:

(a)

(1) Austin Peay State University, East Tennessee State University, Middle Tennessee State University, Tennessee State University, Tennessee Technological University, the University of Memphis, and, subject to prior approval of the commissioner of finance and administration and the comptroller of the treasury, the state colleges of applied technology and community colleges are authorized to maintain bank accounts in their own names and to draw vouchers and checks for their expenditures through their own disbursing officers to maintain their own fiscal procedure under rules prescribed by the board of regents and the state university boards.

(2) The institutions shall furnish monthly statements of their requirements to the commissioner of finance and administration, who shall draw a state warrant for the expenditures.

(b) The purpose of this section is to provide that the state institutions enumerated in subsection (a) shall enjoy the same privileges now enjoyed by the University of Tennessee under the direction and supervision of the board of trustees of the University of Tennessee.

SECTION 10. Tennessee Code Annotated, Section 49-8-108, is amended by deleting the section and substituting instead the following language:

(a)

(1) The Tennessee higher education commission is authorized and empowered to develop reasonable and objective rules and standards for the purpose of determining when degree-granting institutions of higher learning under its jurisdiction have attained the status of a university.

(2) The rules and standards shall take into consideration such factors as variety and depth of instructional programs and the various resources of the institution.

(b) Whenever a state degree-granting institution of higher learning has achieved the status of a university in accordance with the rules and standards authorized in subsection (a), the commission may designate the degree-granting institution of higher learning a university.

(c) Neither this section nor the authorizations conveyed in this section shall have any effect on institutions of higher learning that have already been designated as universities by action of the general assembly.

SECTION 11. Tennessee Code Annotated, Section 49-8-111(d)(1), is amended by deleting the subdivision and substituting instead the following language:

(d)

(1) The board of regents is authorized to sell, upon approval of the state building commission, property which has been acquired for use by the central office of the board. The proceeds from the sale may be used as the board determines; provided, that the use shall be for purposes that are long term and nonrecurring in nature and that are otherwise permitted by law.

SECTION 12. Tennessee Code Annotated, Section 49-8-112(b), is amended by deleting the subsection and substituting instead the following language:

(b) The board of regents and each state university board shall promulgate rules and regulations to be followed by each college or university under its jurisdiction to uniformly implement this section.

SECTION 13. Tennessee Code Annotated, Section 49-8-113, is amended by deleting the section and substituting instead the following language:

(a)

(1) The board of regents and each state university board shall establish a program whereby each of their respective institutions of higher education providing dormitory facilities and cafeteria services shall offer a room plan whereby students may pay for use of the facilities and services on a monthly basis.

(2) Any increase in funds necessary to fund the administration of the program shall be charged as a special service charge to students participating in the program.

(b) The board of regents and each state university board shall promulgate rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, which:

(1) Require the room deposit of any student participating in the program to be retained until the end of the quarter, semester, or session, as is appropriate; and

(2) Deny readmittance to any student who participated in the program who left the institution without paying all charges pursuant to the program until all delinquent charges and interest on the charges are paid in full.

SECTION 14. Tennessee Code Annotated, Section 49-8-115, is amended by deleting the section and substituting instead the following language:

The institutions of postsecondary and higher education subject to this chapter are authorized to appoint administrative judges and hearing officers from among their employees to conduct contested cases under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 15. Tennessee Code Annotated, Section 49-8-117(a), is amended by deleting subdivisions (1) and (2) and substituting instead the following language:

(a)

(1) The board of regents, each state university board, and the University of Tennessee shall establish a grievance procedure for all support staff employees.

(2) "Support staff" means employees who are neither faculty nor executive, administrative, or professional staff of any institution or board subject to this chapter and the University of Tennessee.

SECTION 16. Tennessee Code Annotated, Section 49-8-117(c), is amended by deleting the subsection and substituting instead the following language:

(c) The board of regents, each state university board, and the board of trustees of the University of Tennessee shall provide an annual report to the education committee of the senate and the education administration and planning committee of the house of representatives summarizing grievance activities of the previous year.

SECTION 17. Tennessee Code Annotated, Section 49-8-201(a)(3)(A), is amended by deleting the subdivision and substituting instead the following language:

(A) Twelve (12) public members shall be appointed by the governor, one (1) of whom shall be from each congressional district, and three (3) at-large from different geographical areas of the state; provided, however, that after July 1, 2016, at-large appointments may be either residents from different geographical areas of the state or non-Tennessee residents.

SECTION 18. Tennessee Code Annotated, Section 49-8-201(e), is amended by deleting the subsection and substituting instead the following language:

(e) Nothing in this act shall be construed to affect the terms of the existing members of the board of regents. Amendments to or revisions of this section shall not affect the current members of the board of regents, who shall continue to serve until the expiration of their terms.

SECTION 19. Tennessee Code Annotated, Section 49-8-201, is amended by adding the following language as new subsections (f) and (g):

(f)

(1)

(A) Each state university board shall consist of ten (10) members of which nine (9) members shall be voting members and one (1) member shall be a nonvoting member. The nonvoting member shall be a student representative. Of the (9) voting members, at least six (6) members shall be residents of the state of Tennessee.

(B) Eight (8) of the voting state university board members shall be appointed by the governor.

(C) At least three (3) of the members appointed by the governor shall be alumni of the institution for which they are serving. "Alumnus" shall mean a person who is a graduate of the institution.

(D) In making appointments, the governor shall strive to ensure that the state university boards are composed of members who are diverse in gender, race, perspective, and experience.

(E) One (1) voting board member shall be a faculty member of the institution who shall be selected in a manner determined by the faculty senate of the respective institution.

(F) The nonvoting student member shall be appointed by the state university board.

(2)

(A) The initial terms of the members appointed by the governor to a state university board shall be three (3), four (4), and six (6) years. Three (3) members shall serve a three-year term; three (3) members shall serve a four-year term; and two (2) members shall serve a six-year term. As the initial terms of the initial board members expire, successors shall be appointed for six-year terms.

(B) The faculty member shall serve a term of two (2) years.

(C) The nonvoting student member shall serve a term of one (1) year.

(3) The eight (8) members of a state university board appointed by the governor shall be subject to confirmation by the senate and the house of representatives, but appointments shall be effective until adversely acted upon by joint resolution of the senate and the house of representatives.

(4) State university board members appointed by the governor shall be eligible to serve for two (2) consecutive terms. A member who serves two (2) consecutive terms on a state university board may be reappointed after at least four (4) years have elapsed since the member's last date of service.

(5) If a vacancy occurs by death or resignation, the vacancy shall be filled for the remainder of the term. If a vacancy occurs by reason of expiration of term, the board member whose term is expiring shall serve until a successor is appointed.

(6) The following individuals are prohibited from serving as a member of a state university board for so long as they hold the office or position:

(A) Employees of any public institution of higher education; except those faculty members appointed to the board under subdivision (f)(1)(E);

(B) Elected or appointed officials;

(C) State employees; and

(D) Members of a governing body for any institution of higher education.

(7)

(A) The Tennessee higher education commission shall coordinate and administer an orientation training program, as well as an ongoing continuing education program, for governing board members. This training shall include a perspective on higher education that incorporates national experts in higher education governance. This training shall address the roles and responsibilities of governing boards; the legal and ethical responsibilities of trustees; the board's role in upholding academic standards, intellectual diversity, and academic freedom; budget development; presidential searches and evaluation; the role of higher education in K-12 collaboration; and setting strategic goals. Initial training shall be conducted prior to the first called meeting of the board. In subsequent years, all newly appointed members shall attend orientation seminars within their first year of service.

(B)

(i) Each state university board's first meeting after all members have been appointed shall be upon the call of the governor, at which point the state university boards shall assume responsibility for the management and governance of their respective institutions.

(ii) The state university boards thereafter shall meet at least four (4) times each year.

(iii) Meetings of the state university boards shall be made available for viewing by the public over the Internet by streaming video accessible from the respective institution's web site. Archived videos of the board meetings shall also be available to the public through the respective institution's web site.

(8)

(A) A state university board shall elect from its members a chair and other officers the board deems appropriate. The chair shall serve a term of two (2) years.

(B) The board shall adopt by-laws and rules for the organization and conduct of its business.

(C) To the extent that the policies and guidelines adopted by the board of regents as of the effective date of this act are applicable to the state university boards and their respective institutions, such policies shall be deemed the policies and guidelines of the state university boards and their respective institutions until rescinded or revised by the respective state university boards. Boards shall adopt a policy that facilitates ongoing professional development for members.

(g) Board of regents and state university board members shall receive no compensation for their services, but shall be entitled to reimbursement for travel expenses incurred in the performance of their official duties, in conformity with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 20. Tennessee Code Annotated, Section 49-8-202, is amended by deleting the section and substituting instead the following language:

(a)

(1) The board of regents is empowered to employ a chief executive officer of the board of regents whose office shall be located in Nashville.

(2) The board shall define the chief executive officer's duties, and within budgetary limitations, fix the chief executive officer's compensation.

(3) The chief executive officer shall serve at the pleasure of the board and shall have educational preparation and experience that qualify the chief executive officer for leadership of a large complex system of public higher education.

(b) The board or its designated representative is empowered to employ additional professional and staff employees as may be appropriate for the efficient discharge of its duties.

(c) All reimbursement for travel expenses shall be in accordance with the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 21. Tennessee Code Annotated, Section 49-8-203, is amended by deleting the section and substituting instead the following language:

(a)

(1) With respect to the institutions they govern, each state university board and the board of regents has the power to:

(A) Select and employ the chief executive officers of the institutions and to confirm the appointment of administrative personnel, teachers, and other employees of each state institution and to fix their salaries and terms of office;

(B) Prescribe curricula and requirements for diplomas and degrees. The board of regents and the state university boards shall maintain alignment across state higher education by working to develop curricula requirements that promote student success, postsecondary completion, and advancement of the Tennessee higher education commission state master plan;

(C) Approve the operating budgets and set the fiscal policies for the schools and programs under its control. Each state university board shall have the power to approve the operating budget and set the fiscal policy for the university under its control. In order to ensure the ability to satisfy both contractual obligations to the Tennessee state school bond authority and obligations to that authority's bondholders, the board of

regents shall have authority over, and shall give final approval to, the operating budget of each state university. The funds appropriated for each state university shall initially be distributed by the department of finance and administration to the board of regents, which shall then distribute such funds to each state university in such amounts as were appropriated minus any deduction or deductions required to be made by the board of regents pursuant to any financing agreement, or other similar agreement, then existing by and between the board of regents and the Tennessee state school bond authority or any successor organization. Notwithstanding any provision of law, the board of regents shall retain all powers and duties with respect to each state university, state community college, and Tennessee college of applied technology, including, but not limited to, any projects at such institutions which are necessary for the board of regents to fulfill its covenants, representations, agreements, and obligations under any financing agreement, then existing by and between the board of regents and the Tennessee state school bond authority, or any successor organization, on the date that this act becomes effective, as the same may be amended pursuant to the terms thereof, or any successor or similar agreement subsequently entered into by and between the board of regents and the Tennessee state school bond authority;

(D) Establish policies and regulations regarding the campus life of the institutions, including, but not limited to, the conduct of students, student housing, parking, and safety; and

(E) Assume general responsibility for the operation of the institutions, delegating to the chief executive officer of each respective institution such powers and duties as are necessary and appropriate for the efficient administration of the institution and its programs.

(2) The board of regents has the power to receive donations of money, securities, and property from any source on behalf of the community colleges and the Tennessee colleges of applied technology, which gifts shall be used in accordance with the conditions set by the donor. Each state university board has the power to receive donations of money, securities, and property from any source on behalf of the institution it governs, which gifts shall be used in accordance with the conditions set by the donor.

(3) The board of regents and each state university board has the power to purchase land subject to the terms and conditions of state regulations, to condemn land, to erect buildings, and to equip them for the institution subject to the requirements of the state building commission and to the terms and conditions of legislative appropriations. Each board shall be vested with title to property so purchased or acquired.

(4) The board of regents and each state university board has other powers, not otherwise prescribed by law, that are necessary to carry out this part, and it is the expressed legislative intent and purpose to vest similar and comparable responsibility and authority in each board as is authorized for the board of trustees of the University of Tennessee; provided, that in exercising any power to borrow money for any purpose, whether by the issuance of bonds or notes or by any other method, each board shall first secure the approval of the state school bond authority.

(b) Notwithstanding any other law, the board of regents, a state university board, or any institution subject to this chapter is not authorized to borrow money for any purpose, whether by the issuance of bonds or notes or by any other method, without first securing the approval of the state school bond authority.

(c) State university boards shall manage and initiate capital and real estate transactions; provided, that such transactions are within the scope of a master plan approved by the Tennessee higher education commission.

(d) The title of the property held on behalf of the state universities named in § 49-8-101(a)(2)(A) by the board of regents shall be transferred to the respective state university board upon assumption of responsibility no later than June 30, 2017.

(e) A state university board shall ensure the board's institution remains in compliance with the transfer and articulation provisions of § 49-7-202.

(f) The board of regents, the state university boards, and the institutions subject to this chapter shall not enter into any final agreement or other final arrangement for a merger or consolidation with a private institution of higher education without the authorization of the general assembly, acting through legislation, resolution, or appropriations.

(g) It is unlawful for any member of a state university board or the board of regents to be financially interested in any contract or transaction affecting the interests of any institution governed by the board, or to procure, or be a party in any way to procuring, the appointment of any relative to any position of financial trust or profit connected with the universities and colleges governed. A violation of this subsection (g) shall subject the member so offending to removal by the governor or the board.

(h) Except for the purposes of inquiry or information, a member of the state university board shall not give direction to or interfere with any employee, officer, or agent under the direct or indirect supervision of the chief executive officer of the respective institution.

(i) Each institution subject to this chapter shall provide data to the Tennessee higher education commission for information, assessment, and accountability purposes, to be used in a statewide data system that facilitates the public policy agenda developed by the commission. The commission shall determine the data elements necessary to carry out this task.

(j) Notwithstanding any provision of this act or any other provision of law to the contrary, the state university boards and their respective institutions shall continue to be participating employers in the Tennessee consolidated retirement system and utilize such claims administration services, risk management programs, investment funds and trusts, and retirement and deferred compensation programs, or any successor programs and services in the same fields, as are provided or administered by the department of treasury to any of the state universities on the effective date of the act until the effective date of any subsequent legislation authorizing procurement from another provider.

(k) Institutions shall ensure that any data system employed for student information is interoperable with the statewide student information system used by the board of regents and the higher education commission.

(l) Each institution subject to this chapter shall make a report annually to the higher education commission on any academic program terminations which shall be submitted by the higher education commission to the education committee of the senate and the education administration and planning committee of the house of representatives.

(m) Upon formal request by the higher education commission, the board of regents and each state university board authorized under this chapter shall assist the commission in convening representatives of the institutions and governing boards, as authorized by § 49-7-202(p), to help ensure a cohesive and coordinated system of higher education public policy in Tennessee.

SECTION 22. Tennessee Code Annotated, Section 49-8-204, is amended by deleting the section and substituting instead the following language:

(a) The board of regents and each state university board shall establish and adopt a code of ethics that shall apply to and govern the conduct of all appointed members of each board.

(b) Notwithstanding any other law to the contrary, by a two-thirds (2/3) vote of its membership, the board of regents and each state university board may remove any appointed member of the respective board for a material violation of the code of ethics.

(c) A board vote to remove one (1) of its members shall only be taken after the accused member has been afforded a due process contested case hearing in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and a finding has been made that the member did violate the board's code of ethics.

(d) If a member is removed in accordance with this section, the position shall be considered vacant and the vacancy shall be filled as provided by law.

SECTION 23. Tennessee Code Annotated, Section 49-8-301(a), is amended by deleting the subsection in its entirety and substituting instead the following language:

(a) The board of regents and each state university board shall promulgate a tenure policy or policies for faculty at their respective institutions, which policy or policies shall ensure academic freedom and provide sufficient professional security to attract the best qualified faculty available for the institutions.

SECTION 24. Tennessee Code Annotated, Section 49-8-303, is amended by deleting the section and substituting instead the following language:

(a) The board of regents and each state university board shall develop procedures for the termination of faculty with tenure for adequate cause by the institutions following a hearing that ensures due process, which procedures shall include the following minimum requirements:

(1) The faculty member shall be notified of the specific charges in writing, and shall be notified of the time, place, and nature of the hearing at least twenty (20) days prior to the hearing;

(2) The faculty member shall have the right to be represented by counsel of the faculty member's own choice;

(3) A verbatim record of the hearing shall be made, and a typewritten copy made available to the faculty member for a reasonable fee at the faculty member's request;

(4) The burden of proof that adequate cause for termination exists shall be upon the institution and shall be satisfied only by clear and convincing evidence in the record considered as a whole;

(5) The faculty member shall have the right to confront and cross-examine all witnesses; and

(6) The findings of fact and the decision shall be based solely on the hearing record.

(b) The board of regents and each state university board shall adopt all additional procedures the respective board deems necessary for the hearings and may provide for review of the decision by the board or its designee based upon the record.

(c) A faculty member serving a probationary period shall be given an oral statement of the reason for nonappointment to the institution's faculty.

SECTION 25. Tennessee Code Annotated, Section 49-8-304(b), is amended by deleting the subsection in its entirety and substituting instead the following language:

(b) Within forty-five (45) days after service of the petition, or within such further time allowed by the court, the board of regents or the state university board shall transmit to the court the original or a certified copy of the entire record of the proceeding.

SECTION 26. Tennessee Code Annotated, Section 49-8-501(b), is amended by deleting the subsection in its entirety and substituting instead the following language:

(b) The transfer shall place the paramedical school under the control, direction, and supervision of East Tennessee State University and its state university board.

SECTION 27. Tennessee Code Annotated, Section 49-8-601, is amended by deleting the section and substituting instead the following language:

Subject to approval by its state university board, the University of Memphis is authorized to enter into an indemnity agreement with the United States nuclear regulatory commission, as required pursuant to 42 U.S.C. § 2210 and 10 C.F.R. § 140.95, in connection with its nuclear facility operating license.

SECTION 28. Tennessee Code Annotated, Section 49-8-801, is amended by deleting the section and substituting instead the following language:

Tennessee State University shall be operated and maintained as a state university under the management and governance of a state university board, with all programs available to all qualified citizens, and shall continue to function as the 1890 land grant institution of the state pursuant to federal laws and recognized as a federally designated historically black college and university.

SECTION 29. Tennessee Code Annotated, Section 49-7-202, is amended by deleting the section in its entirety and substituting instead the following language:

(a) It is the duty of the commission on a continuing basis to study the use of public funds for higher education in this state and to analyze programs and needs in the field of higher education.

(b) The commission shall establish and ensure that all postsecondary institutions in this state cooperatively provide for an integrated system of postsecondary education. The commission shall guard against inappropriate and unnecessary conflict and duplication by promoting transferability of credits and easy access of information among institutions.

(c) The commission shall:

(1) Provide planning and policy leadership, including a distinct and visible role in setting the state's higher education policy agenda and serving as an agent of education transformation;

(2) Develop and advance the education public policy agenda of the state to address the challenges facing higher education in Tennessee; and

(3) Develop public consensus and awareness for the Tennessee higher education public policy agenda.

(d)

(1) The commission shall develop a statewide master plan to increase the educational attainment levels of Tennesseans through strategic future development of public universities, community colleges, and colleges of applied technology.

(2) In the development of this master plan, the commission shall actively engage with state institutions of higher education and their respective governing boards, as well as key stakeholders, and the appropriate state agencies.

(3) The commission shall engage regional and statewide constituencies for input and information to ensure the master plan supports the development of higher education opportunities for Tennesseans. Additionally, provisions of the master plan shall facilitate regional cooperation and alignment among

postsecondary institutions, secondary educational institutions, business, and industry, as well as civic and community leaders.

(4) This master plan shall be reviewed and revised as deemed appropriate by the commission, and shall include, but not be limited to, consideration of the following provisions:

(A) Addressing the state's economic development, workforce development, and research needs;

(B) Ensuring increased degree production within the state's capacity to support higher education; and

(C) Using institutional mission differentiation to minimize redundancy in degree offerings, instructional locations, and competitive research, and to realize statewide efficiencies through institutional collaboration.

(5) Following completion of the master plan and to expedite implementation, the commission shall submit any necessary higher education policy recommendations to the governing boards of the various institutions, the governor, and the general assembly through the education committee of the senate and the education administration and planning committee of the house of representatives.

(e) Concurrent with the adoption of each revised master plan and in consultation with the respective governing boards, the commission shall approve institutional mission statements. Submitted by state institutions, an institutional mission statement shall characterize distinctiveness in degree offerings and shall address institutional accountability for the quality of instruction, student learning, and, where applicable, research and public service to benefit Tennessee citizens. Nothing contained in this section shall prohibit any institution from pursuing research and related activities that are consistent with the institution's mission.

(f)

(1) The commission shall develop and utilize an outcomes-based funding formula model to ensure the fair and equitable distribution and use of public funds among state institutions of higher education.

(2) This funding formula model shall further the goals of the statewide master plan by emphasizing outcomes across a range of variables that shall be weighted to reinforce each institution's mission and provide incentives for productivity improvements consistent with the state's higher education master plan, including:

(A) End-of-term enrollment for each term, student retention, and timely progress toward degree completion and degree production; and

(B) Student transfer activity, research, and student success, as well as compliance with the transfer and articulation policies required in this section.

(3) The funding formula model shall consider the impact of tuition, maintenance fees, and other charges assessed by each institution in determining the fair and equitable distribution of public funds. The commission shall also consider capital outlay programs and operating expenses, which shall be utilized to determine the higher education appropriations recommendation.

(g)

(1) The commission shall establish a review committee to aid in development or revision of the higher education master plan and funding formula. The committee shall include the executive director of the Tennessee higher

education commission, the chancellor of the board of regents, the president of the University of Tennessee system, each president of a board of regents state university, the commissioner of finance and administration, the comptroller of the treasury, the chairs of the standing committees on education and finance, ways and means of the senate, the chairs of the standing committees on education administration and planning and finance, ways and means of the house of representatives, and the directors of the office of legislative budget analysis, or their designees.

(2) The committee shall review the funding formula components, as well as identify needed revisions, additions, or deletions to the formula. The committee shall also ensure that the funding formula is linked to the goals and objectives of the master plan.

(3) The review committee shall meet at least annually.

(h) The commission shall submit the revised higher education funding formula to the office of legislative budget analysis and the comptroller of the treasury no later than December 1 of each year. The commission shall also report any projected tuition increases for the next academic year to the office of legislative budget analysis and the comptroller of the treasury no later than December 1 of each year. The office of legislative budget analysis and the comptroller of the treasury shall each provide comments on the higher education funding formula to the chairs of the education and finance, ways and means committees of the senate and the chairs of the education administration and planning and finance, ways and means committees of the house of representatives.

(i) Before any amendment or revision to the outcomes-based funding formula model shall become effective, the amendment or revision shall be presented to the education and finance, ways and means committees of the senate and the education administration and planning and finance, ways and means committees of the house of representatives for review and recommendation.

(j) In the implementation of its duties, the commission, in cooperation with the commissioner of finance and administration and the comptroller of the treasury, shall establish uniform standards of accounting, records, and statistical reporting systems in accordance with accepted national standards, which standards shall be adhered to by the various institutions in preparing for submission to the commission statistical data and requests for appropriations.

(k) The commission shall develop funding recommendations that reflect the outcomes-based funding formula model as well as the priorities of the approved master plan.

(l) The commission shall have no authority for recommending individual colleges of applied technology's operating budgets nor in approving or disapproving the transfer of any funds between colleges of applied technology deemed necessary by the board of regents to carry out the provisions of chapter 181 of the Public Acts of 1983. For fiscal years ending on and after June 30, 2013, the commission shall have no authority for recommending individual community colleges' operating budgets or in approving or disapproving the transfer of any funds between community colleges as may be determined necessary by the board of regents.

(m) The commission shall develop a comprehensive strategic financial plan for higher education focusing on state appropriations, student tuition and other charges, financial aid, and capital and infrastructure issues, as well as other factors, as appropriate. The plan shall also address higher education efficiency, affordability, performance, return on investment, and other relevant factors.

(n)

(1) The commission shall review annually tuition and other institutional fees charged to students attending state institutions of higher education.

(2) Following this review, the commission shall approve annually a tuition and fee policy binding upon all state institutions of higher education. This tuition policy shall apply only to tuition and fees charged to undergraduate students classified as Tennessee residents, commonly referred to as in-state tuition or maintenance fees.

(3) The tuition policy shall include two (2) approved ranges of allowable percentage adjustment:

(A) One (1) range for any proposed modification to the current tuition rates; and

(B) One (1) range for any proposed modification to the combined total amount of tuition and all mandatory fees assessed.

(4) Institutions may adopt tuition and fee adjustments within the commission's approved policy ranges, but no increase shall exceed the maximum percent adjustment approved by the commission.

(5) Tuition-setting authority for undergraduate students not classified as Tennessee residents and all graduate-level students shall be the sole responsibility of the institution's respective governing board.

(6) Nothing in this subsection (n) shall prohibit institutions from reducing the total tuition and fees charged to students.

(7) Notwithstanding any provision of this subsection (n), no change in tuition or fee policy shall be made that, in the opinion of the board of regents, might adversely affect compliance with, or future borrowings pursuant to, financing agreements with the Tennessee state school bond authority.

(o) The commission shall establish a formal process, consistent with the provisions of § 49-7-1002, for identifying capital investment needs and determining priorities for these investments for consideration by the governor and the general assembly as part of the annual appropriations act.

(p) As necessary, the commission may convene the membership, leaders, and personnel of each public institution, governing board, or system to ensure a cohesive and coordinated system of higher education public policy. The commission may also conduct orientation and informational policy seminars for members of governing boards.

(q)

(1)

(A) The commission shall study the need for particular programs, departments, academic divisions, branch operations, extension services, adult education activities, public service activities, and work programs of the various institutions of higher learning, with a particular view to their cost and relevance and to make recommendations to the respective governing boards for the purpose of minimizing duplication and overlapping of functions and services and to foster cooperative programs among the various institutions.

(B) The commission is authorized to make recommendations to the governing boards for the termination of existing on-campus and off-campus programs of those institutions set forth in § 49-7-203 that are determined by the commission to be unnecessarily duplicative. A copy of the recommendations shall be filed with the education committee of the senate and the education administration and planning committee of the house of representatives.

(C) The governing boards of the institutions shall make a report annually on any program terminations to the education committee of the

senate and the education administration and planning committee of the house of representatives, and a copy of the report shall be filed with the commission.

(2)

(A) The commission shall review and approve or disapprove all proposals for new degrees or degree programs or for the establishment of new academic departments or divisions within the various institutions of higher learning.

(B) Determination of specific courses or course content, however, shall continue to be the exclusive function of the governing boards of the various institutions.

(C) This subdivision (q)(2) shall apply to state colleges of applied technology only if the schools grant degrees and shall apply only to those schools granting degrees, unless the system as a whole grants degrees.

(3) The commission shall review and approve or disapprove all proposals by any existing higher education institution to establish a physical presence at any location other than its main campus or to extend an existing location that will be utilized for administrative purposes or to offer courses for which academic credit is offered. If the new location will create or expand a physical presence out of state, the higher education institution shall, through its governing board, file with the commission a notice of intent to initiate out-of-state instructional activity prior to the development of the proposal. The commission shall, no later than February 15 of each year, report to the chairs of the fiscal review committee, the education committee of the senate, and the education administration and planning committee of the house of representatives of any such notices filed in the previous year and the status of that application. The commission shall develop policies and procedures governing the process outlined in this subdivision (q)(3). This subdivision (q)(3) shall also apply to state colleges of applied technology.

(r)

(1) The commission shall require all state institutions of higher education to collaborate and develop a transfer pathway for at least the fifty (50) undergraduate majors for which the demand from students is the highest and in those fields of study for which the development of a transfer pathway is feasible based on the nature of the field of study.

(2)

(A) A transfer pathway shall consist of sixty (60) hours of instruction that a student can transfer and apply toward the requirements for a bachelor's degree at a public institution that offers the transfer pathway. The sixty (60) hours of instruction in a transfer pathway shall consist of forty-one (41) hours of general education courses instruction and nineteen (19) hours of pre-major courses instruction, or elective courses instruction that count toward a major, as prescribed by the commission, which shall consider the views of chief academic officers and faculty senates of the respective campuses. Courses in a transfer pathway shall transfer and apply toward the requirements for graduation with a bachelor's degree at all public universities.

(B) An associate of science or associate of arts degree graduate from a Tennessee community college shall be deemed to have met all general education and university parallel core requirements for transfer to a Tennessee public university as a junior. Notwithstanding this subdivision (r)(2)(B), admission into a particular program, school, or college within a university, or into the University of Tennessee, Knoxville, shall remain competitive in accordance with generally applicable policies.

(C) The forty-one-hour lower division general education core common to all state colleges and universities shall be fully transferable as a block to, and satisfy the general education core of, any public community college or university. A completed subject category, for example, natural sciences or mathematics, within the forty-one-hour general education core shall also be fully transferable and satisfy that subject category of the general education core at any public community college or university.

(D) The nineteen-hour lower division AA/AS area of emphasis articulated to a baccalaureate major shall be universally transferable as a block satisfying lower division major requirements to any public university offering that degree program major.

(3) It is the legislative intent that community college students who wish to earn baccalaureate degrees in the state's public higher education system be provided with clear and effective information and directions that specify curricular paths to a degree. To meet the intent of this section, the commission, in consultation with the governing boards of all state institutions of higher education, shall develop, and the governing boards of all state institutions of higher education shall implement, the following:

(A) A common course numbering system, taking into consideration efforts already undertaken, within the community colleges to address the requirements of subdivision (r)(1); and

(B) Listings of course offerings that clearly identify courses that are not university parallel courses and therefore not designed to be transferable under subdivision (r)(1).

(4) This subsection (r) shall be fully implemented no later than the fall 2015 semester. Until this subsection (r) is fully implemented, prior to the beginning of each semester, the commission shall report to the chairs of the education and finance, ways and means committees of the senate and the chairs of the education administration and planning and finance, ways and means committees of the house of representatives on the progress made toward completion of the nineteen (19) pre-major course blocks provided in subdivision (r)(2)(D).

(5) The commission shall have ongoing responsibility to update and revise the plans implemented pursuant to this subsection (r) and report to the chairs of the education and finance, ways and means committees of the senate and the chairs of the education administration and planning and finance, ways and means committees of the house of representatives no later than October 1 of each year on the progress made toward full articulation between all public institutions.

(s) Notwithstanding any law or rule to the contrary, the commission, in consultation with the governing boards of state institutions of higher education, shall develop policies under which a person who satisfies the admissions requirements of a two-year institution and a four-year institution may be admitted to both such institutions. The commission shall identify those institutions for which such dual admission is appropriate, based on geographic or programmatic considerations. These policies shall be adopted and implemented by the governing boards of all state institutions of higher education no later than July 1, 2015.

(t)

(1) The commission, with the assistance of the University of Tennessee system, state universities, and the community college system, shall develop information concerning the potential career opportunities in each curriculum or major field of study leading to a baccalaureate degree that is offered at a state institution of higher education. The information shall include, but not be limited to,

the potential job market in this state in the major field or curriculum after graduation, the median income or an income range for jobs in the major field or curriculum in this state, and whether an advanced degree in the major field or curriculum is required to obtain employment in that field.

(2) The information developed concerning career opportunities for curricula and major fields of study under subdivision (t)(1) shall be posted on the commission's web site. A link to the information developed by the commission, together with a brief description of the type of information available, shall be posted on the web site of each state institution of higher education offering baccalaureate degrees. The institutions shall not be required to publish the information developed by the commission in school catalogs, but school catalogs shall include, in a prominent location, the web site address for the information and a brief description of the type of information that is available.

(3) The information required by this subsection (t) shall be updated at least annually.

(u) The commission shall undertake specific duties that are directed by resolution of the general assembly or requested by the governor.

SECTION 30. Tennessee Code Annotated, Section 49-7-1002, is amended by deleting the section in its entirety and substituting instead the following language:

(a) All legislative proposals or requests for state funding toward public higher education capital projects, maintenance, new academic programs, public service, research activities, and engagement opportunities or operational support coming before the general assembly shall first be considered and acted upon through established processes and procedures to review such requests; provided, however, that if such consideration or action through established processes and procedures is not possible, then such legislative proposals or requests shall be made with the knowledge of the executive director of the Tennessee higher education commission, the chancellor of the board of regents, or the president of the University of Tennessee, as applicable, and the chief executive officer of the institution for which the proposal or request for state funding is made. The executive director, chancellor, and the president shall be accountable for ensuring that the established processes for considering and evaluating such requests are followed to the greatest extent possible.

(b) At no time shall an employee of a state institution of higher education advance state legislative funding requests without the knowledge of the executive director, chancellor, or president of the respective system or institution for which the request is made, and the chief executive officer of the institution, campus, or unit.

(c) The executive director, chancellor, and president are expected to advance such policies or proposals through existing processes and procedures established in the spirit to maximize the state's ability to strategically plan, execute, and maintain the state's public higher education obligations.

(d) The governing board of each institution shall be authorized to take such action as each board deems reasonable and appropriate to enforce this part and that is consistent with the purpose of this part.

SECTION 31. Tennessee Code Annotated, Section 49-9-202(a), is amended by adding the following language as a new subdivision (8) and redesignating subsequent subdivisions accordingly:

(8) One (1) additional member who shall be a non-Tennessee resident;

SECTION 32. Tennessee Code Annotated, Section 12-3-102(a)(3), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(3) The board of trustees of the University of Tennessee system, the Tennessee board of regents system, and the state university boards;

SECTION 33. The state university boards are authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 34. Tennessee Code Annotated, Section 49-7-204, is amended by deleting subsections (a), (b), and (c) in their entireties and substituting instead:

(a)

(1)

(A) The commission shall consist of a total of ten (10) appointed voting members.

(B) The governor shall appoint six (6) voting members, the speaker of the senate shall appoint one (1) voting member, the speaker of the house of representatives shall appoint one (1) voting member, and the speakers shall jointly appoint one (1) voting member.

(C) In addition, the governor shall appoint two (2) student members. One (1) student member shall be a voting member, and one (1) student member shall be a nonvoting member. The student appointed pursuant to subdivision (d)(2)(A) will be the first voting student member for a term of one (1) year, followed by the student member appointed pursuant to subdivision (c)(1), who shall serve a term of one (1) year as a voting member. Thereafter, the voting student membership shall be rotated between the student representing the University of Tennessee system and the student representing institutions that are not in the University of Tennessee system, it being the legislative intent that a student member serve one (1) year as a nonvoting member before becoming a voting member.

(D) The comptroller of the treasury, the secretary of state, and the state treasurer shall serve as ex officio, voting members of the commission. The executive director of the state board of education shall serve as an ex officio, nonvoting member of the commission.

(2)

(A) Except for ex officio members and student members, membership shall be for a six-year term.

(B) To transition from appointment of all members by the governor to appointment of members by the governor, the speaker of the senate, and the speaker of the house of representatives, when the first vacancy occurs or the first term expires after July 1, 2016, the speaker of the senate shall appoint the member to fill the vacancy. When the second vacancy occurs or the next term expires, the speaker of the house of representatives shall appoint the member to fill the vacancy. When the third vacancy occurs or the next term expires, the speaker of the senate and the speaker of the house of representatives shall jointly appoint the member to fill the vacancy.

(3)

(A) As the governor, speaker of the senate, and speaker of the house of representatives appoint voting members, other than the student members, the governor, the speaker of the senate, and the speaker of the house of representatives shall appoint the voting members so that the three (3) grand divisions of the state are represented equally.

(B) No member of the commission serving on July 1, 2016, shall have the member's term cut short because of subdivision (a)(3)(A).

(4) When the nine (9) voting members, other than the student member, have been appointed so that the three (3) grand divisions are represented equally, the appointing authorities, in filling vacancies, shall subsequently appoint a person from the grand division in which the member who previously filled the position resided.

(5) Members shall be eligible for reappointment.

(6) The appointing authorities shall strive to appoint members to the commission in a manner that is representative of the diversity of the citizens of the state.

(b)

(1) Except as provided in subdivision (a)(2)(B), any vacancy on the commission shall be filled by appointment of the authority who originally made the appointment.

(2) Vacancies, except for expiration of a term, shall be filled for the unexpired term only.

(3) Except for members appointed before July 1, 2016, the place of any member on the commission shall be vacated at such time as the member ceases to reside in the grand division in which the member resided at the time of appointment.

(c)

(1) One (1) member of the commission shall be a student who shall be appointed by the governor from a list of three (3) nominees selected and submitted no later than April 15 by the presidents of the student government associations and associated student bodies of the community colleges, the Tennessee colleges of applied technologies, and the six (6) state universities.

(2) The student member shall serve for a term of two (2) years beginning on July 1 after the student member's appointment by the governor. The student shall continue as a student in good standing at the institution the student represents during the student's term on the commission.

(3) The list of nominees referenced in subdivision (c)(1) shall be selected in accordance with the following provisions:

(A)

(i) One (1) nominee shall be enrolled as a full-time student at a state university at the time of nomination and shall maintain enrollment as a full-time student at the state university;

(ii) One (1) nominee shall be enrolled as a full-time student at a community college at the time of nomination and shall maintain enrollment as a full-time student at the community college; and

(iii) One (1) nominee shall be enrolled as a full-time student at the time of nomination at a Tennessee college of applied technology;

(B) The nominees may not be enrolled at the same institution;

(C) All nominees for student commission member shall be residents of this state; and

(D) A majority of the student government association and associated student body presidents of all state universities, community

colleges, and Tennessee colleges of applied technologies shall constitute a quorum for nomination purposes. A majority vote of those present and voting is necessary to effect a nomination.

(4) The executive director of the commission shall notify all student government association and associated student body presidents of the necessity for the nominating procedure described in subdivision (c)(3).

SECTION 35. This act shall take effect on July 1, 2016, the public welfare requiring it.

HOUSE BILL NO. 2578

PASSED: April 4, 2016

BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 19th day of April 2016

BILL HASLAM, GOVERNOR