

CHAPTER 13

(HB 93)

AN ACT relating to reorganization.

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

Section 1. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the council;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test or an equivalent score, as determined by the council, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship" means a scholarship provided to an eligible student to attend a participating institution;
- (7) "***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship curriculum" means five (5) courses of study in an academic year as determined by administrative regulation promulgated by the council;
- (8) "***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship trust fund" means the Wallace G. Wilkinson ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship trust fund;
- (9) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (10) "Eligible student" means any person who is a Kentucky resident enrolling in a Kentucky high school, after July 1, 1998, who, while meeting the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship curriculum requirements, has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, and who is not a convicted felon;
- (11) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (12) "Grade point average" means the grade point average earned by an eligible student based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (13) "High school" means any Kentucky public high school, and any private, parochial, or church school that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

- (14) "Maximum award amount" means the sum of the proportionate base scholarship amount earned by an eligible student in each academic year of high school study and any supplemental award earned by an eligible student. The amount so determined shall be the maximum amount available to the eligible student for any award period;
- (15) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
- (a) 1. Is publicly operated; or
 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; and
 - (b) Continues to commit financial resources to student financial assistance programs and provides annual documentation to the authority of compliance;
- (16) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (17) "Supplemental award" means commitment of additional scholarship funds under KRS 164.7879(3) to an eligible student based on the eligible student's ACT score.

Section 2. KRS 164.7877 is amended to read as follows:

- (1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Wallace G. Wilkinson *Kentucky Educational Excellence*~~[Commonwealth Merit]~~ Scholarship Trust Fund" to which shall be credited net lottery revenues transferred in accordance with KRS 154A.130; gifts; bequests; endowments; grants from the United States government, its agencies, and instrumentalities; and funds received from any other sources, public or private.
- (2) The moneys in the fund are hereby continuously appropriated only for the purposes set forth in KRS 164.7871 to 164.7885 and KRS 164.7889.
- (3) The council shall administer the *Kentucky educational excellence*~~[Commonwealth merit]~~ scholarship trust fund. Upon the approval of the council, the authority may expend funds from the *Kentucky educational excellence*~~[Commonwealth merit]~~ scholarship trust fund that are necessary and reasonable to meet the expenses of administering the *Kentucky educational excellence*~~[Commonwealth merit]~~ scholarship trust fund.

Section 3. KRS 164.7879 is amended to read as follows:

- (1) *Kentucky educational excellence*~~[Commonwealth merit]~~ scholarship awards shall be based upon an established base scholarship amount and an eligible student's grade point average. The base scholarship amount for students attaining a grade point average between 2.5 and 4.0 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
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2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.50	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.50
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00
3.25	\$312.50		

The council shall review the base amount of the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) The authority shall commit to provide to each eligible student the base amount of the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship for each academic year of high school study in the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship curriculum that the student has attained at least a 2.5 grade point average. The award shall be based upon the eligible student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible student, regardless of any subsequent increases made to the base amount of the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship through the promulgation of an administrative regulation by the council.
- (3) (a) The authority shall commit to provide to each eligible student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

Annual		Annual	
ACT Score	Bonus	ACT Score	Bonus
15	\$21	22	\$171
16	\$43	23	\$193
17	\$64	24	\$214
18	\$86	25	\$236
19	\$107	26	\$257
20	\$129	27	\$279
21	\$150	28 or above	\$300

Subsequent supplemental awards for eligible students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who graduate from a nonpublic high school not certified by the Kentucky Board of Education and Kentucky residents who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class.

Section 4. KRS 164.7881 is amended to read as follows:

- (1) Every eligible student who has graduated from high school and who has earned a ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship, or a ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship and a supplemental award, shall be eligible to receive the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship, or the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship and the supplemental award, for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6) of this section.
- (2) To receive the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship or a ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship and supplemental award, an eligible student shall:
- (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
- (b) Maintain eligibility as provided in subsection (3) of this section.

- (3) Eligibility for a *Kentucky educational excellence*~~{Commonwealth merit}~~ scholarship or a *Kentucky educational excellence*~~{Commonwealth merit}~~ scholarship and supplemental award shall terminate upon the earlier of:
- (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or
 - (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a *Kentucky educational excellence*~~{Commonwealth merit}~~ scholarship or a *Kentucky educational excellence*~~{Commonwealth merit}~~ scholarship and supplemental award for a cumulative total of eight (8) academic terms if the student enrolls full-time in a four (4) year program.
- (4) (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible student for an award period shall be disbursed by the authority to the eligible student in two (2) equal installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.
- (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible student.
 - (c)
 1. An eligible student who is enrolled full-time in an undergraduate program of study shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible student shall have a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.
 2. Any eligible student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.
 3. Any eligible student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
 4. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each eligible student enrolled as a full-time or part-time student at the participating institution.
 5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award

period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

- (5) The expiration of a student's five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:
 - (a) A serious and extended illness or injury of the student, certified by an attending physician;
 - (b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
 - (c) Natural disasters that would render a student unable to attend classes; or
 - (d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.
- (6) An eligible student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the *Kentucky educational excellence*~~{Commonwealth merit}~~ scholarship, or the *Kentucky educational excellence*~~{Commonwealth merit}~~ scholarship and the supplemental award for a maximum of ten (10) academic terms. The expiration of an eligible student's five (5) year eligibility shall be extended to six (6) years for eligible students meeting the requirements of this subsection.
- (7) Each eligible student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District.

Section 5. KRS 164.7885 is amended to read as follows:

- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students during the academic year. The list shall identify the high school and shall contain each eligible student's name, social security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. The authority shall notify each eligible student of his or her *Kentucky educational excellence*~~{Commonwealth merit}~~ scholarship award earned each academic year. The authority shall determine the final *Kentucky educational excellence*~~{Commonwealth merit}~~ scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible student of the final determination. The authority shall make available a list of eligible students to participating institutions.
- (2) Not later than January 30, 1999, and each January 30 thereafter, each Kentucky high school shall submit to the Kentucky Department of Education, which shall transmit to the authority, a compiled list of all eligible students expected to graduate during the academic year. The list shall identify the high school and shall contain each eligible student's name, Social Security number, address, grade point average for the fall academic period of the current academic year, and highest ACT score. The authority shall then calculate each eligible student's

projected ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship and supplemental award based on the eligible student's data available to the Authority and shall make available to participating institutions by April 1 of each academic year a comprehensive list of prospective graduates who are eligible students and their projected scholarship and supplemental award amounts. The authority shall notify each prospective high school graduate who is an eligible student of his or her projected ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship and supplemental award amount.

- (3) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible student or have been listed by the eligible student on the Free Application For Federal Student Aid.
- (4) For each eligible student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:
 - (a) The student's initial eligibility for a ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship or ***Kentucky educational excellence***~~[Commonwealth]~~ scholarship and supplemental award through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school;
 - (c) The eligible student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible student's cumulative grade point average after the completion of each award period.
- (5) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible students enrolled for that academic term. ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarships and supplemental awards shall be disbursed by the authority to each eligible student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
- (6) Except as provided in this subsection, the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship and the supplemental award shall not be reduced.
 - (a) If the sum of the ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarship and the supplemental award plus other student financial assistance from all sources exceeds the eligible student's total cost of education, as defined in 20 U.S.C. sec. 10871l, need-based financial assistance awards administered by the authority and the participating institution shall be reduced by the amount that all student financial assistance exceeds the total cost of education.
 - (b) ***Kentucky educational excellence***~~[Commonwealth merit]~~ scholarships and supplemental awards shall not be awarded to any eligible students who are in default on any obligation to the authority under any programs administered by the authority under KRS 164.785 until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
- (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of ***Kentucky educational excellence***~~[Commonwealth]~~

~~merit~~ scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

Section 6. KRS 154A.130 is amended to read as follows:

- (1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the startup costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.
- (2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.
- (3) Beginning in fiscal year 1999-2000, and each fiscal year thereafter, three million dollars (\$3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:
 - (a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars (\$1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and
 - (b) To the early reading incentive fund, one million eight hundred thousand dollars (\$1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter.
- (4) After the allocation of three million dollars (\$3,000,000) to literacy development, as provided in subsection (3) of this section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

- (a) To the Wallace G. Wilkinson *Kentucky educational excellence* ~~Commonwealth merit~~ scholarship trust fund established in Section 3 of this Act:
 1. Seven million dollars (\$7,000,000) in fiscal year 1999-2000;
 2. Fifteen percent (15%) in fiscal year 2000-2001;
 3. Twenty-five percent (25%) in fiscal year 2001-2002;
 4. Thirty-two percent (32%) in fiscal year 2002-2003;
 5. Forty percent (40%) in fiscal year 2003-2004; and
 6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and
- (b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:
 1. Fourteen million dollars (\$14,000,000) in fiscal year 1998-1999;
 2. Fifteen million dollars (\$15,000,000) in fiscal year 1999-2000;
 3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 20022003;
 4. Forty percent (40%) in fiscal year 2003-2004;
 5. Forty-five percent (45%) in fiscal year 2004-2005; and
 6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.
- (5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.
- (6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

- (a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;
- (b) A statement identifying the auditing firm;
- (c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and
- (d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 7. The General Assembly hereby confirms Executive Order 98-1592, issued by the Governor on December 3, 1998, to the extent that it is not otherwise confirmed by this Act.

Approved February 15, 2000