

CHAPTER 133

(HB 2)

AN ACT relating to postsecondary financial aid programs funded with coal severance tax receipts and declaring an emergency.

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

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

- (1) *The General Assembly recognizes that the bachelor degree attainment rate in the coal-producing counties of Kentucky is lower than the state average. It is the intent of the General Assembly to establish the Kentucky Coal County College Completion Program to assist residents of coal-producing counties who are attending postsecondary education institutions located in coal-producing counties by providing:*
- (a) *Scholarships to:*
1. *Decrease the financial barriers to bachelor's degree completion; and*
 2. *Encourage students to remain in the area; and*
- (b) *Grants to community colleges located in coal-producing counties to enhance the extent and quality of student support services and program offerings necessary to increase student success and degree production in the area.*
- (2) *For purposes of this section:*
- (a) *"District" means the Kentucky Coal County District consisting of coal-producing counties as defined in KRS 42.4592(1)(c);*
- (b) *"High school" means a Kentucky public high school or a private, parochial, or church school located in Kentucky 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;*
- (c) *"Kentucky Coal County College Completion scholarship" or "KCCCC scholarship" means a scholarship described in subsection (1)(a) of this section;*
- (d) *"Kentucky Coal County College Completion student services grant" or "KCCCC student services grant" means a grant described in subsection (1)(b) of this section; and*
- (e) *"Tuition" means the in-state tuition and mandatory fees charged to all students as a condition of enrollment in an undergraduate program.*
- (3) *A participating institution shall:*
- (a) *Be physically located in the district;*
- (b) *Offer bachelor's degree programs and be:*
1. *A regionally accredited, independent nonprofit Kentucky college or university licensed by the Council on Postsecondary Education whose main campus is based in the district, including a work-college as determined by the Kentucky Higher Education Assistance Authority;*
 2. *A four (4) year public university extension campus; or*
 3. *A regional postsecondary education center, including the University Center of the Mountains.*
- (4) *A participating institution may establish extension campuses within the district to offer bachelor degree programs for purposes of this section.*
- (5) *A nonparticipating institution shall:*
- (a) *Have its main campus located in Kentucky but not in the district;*
- (b) *Offer a bachelor's degree program not offered at any participating institution;*
- (c) *Be accredited by the Southern Association of Colleges and Schools; and*

- (d) *Be a public or independent, nonprofit college or university that is licensed by the Council on Postsecondary Education.*
- (6) *The Kentucky Higher Education Assistance Authority shall administer the Kentucky Coal County College Completion Program and shall promulgate administrative regulations in accordance with KRS Chapter 13A as may be needed for the administration of the program.*
- (7) *The authority may award a KCCCC scholarship under this section, to the extent funds are available for that purpose, to any person who:*
 - (a) *Is considered a permanent resident of the district for at least one (1) year immediately preceding July 1 of the academic year in which the scholarship is made;*
 - (b) *Is a United States citizen;*
 - (c) *Is a Kentucky resident as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;*
 - (d) *Completes and submits the Free Application for Federal Student Aid for the academic year in which the grant is made;*
 - (e) *Has earned at least sixty (60) credits or the equivalent of completed coursework toward a bachelor's degree;*
 - (f) *Is enrolled at least half-time at a participating institution, or a nonparticipating institution in accordance with subsection (8) of this section, in upper division courses in a program of study that leads to a bachelor's degree;*
 - (g) *Is in good academic standing in accordance with the institution's policy; and*
 - (h) *Is not in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785, except that ineligibility for this reason may be waived by the authority for cause.*
- (8) *A student otherwise eligible for the KCCCC scholarship who is enrolled in a nonparticipating institution shall be eligible to receive the KCCCC scholarship if he or she is enrolled in a bachelor's degree program in a field of study that is not offered at any participating institution. A program shall be clearly unlike any degree program offered by a participating institution to be eligible. The authority shall promulgate administrative regulations to establish procedures to designate the approved programs of study at nonparticipating institutions for which an eligible student can receive the KCCCC scholarship, which shall include a program review process that requires fifty percent (50%) or more of the courses offered in a program to be different from courses available in a program offered by a participating institution. The maximum annual total of KCCCC scholarships expended for this purpose, to the extent funds are available, shall not exceed five percent (5%) of the amount appropriated for KCCCC scholarships.*
- (9) (a) *The KCCCC scholarship amount provided to a student may be applied to the student's cost of attendance and shall be forty percent (40%), up to the maximum amount defined in subsections (10) and (11) of this section, of the amount remaining after subtracting the student's federal and state grants and scholarships from the institution's published tuition and mandatory fees amount that is used for purposes of packaging federal student aid. Work study and student loan funds shall not be included in the calculation.*
 - (b) *For purposes of this subsection, the tuition amount for a work-college, as described in subsection (3)(c)1. of this section, shall be the average tuition and mandatory fees amount of the participating institutions that are described in subsection (3)(c)1. of this section and are not work-colleges.*
 - (c) *Students attending less than full-time shall receive a pro rata amount as determined by the authority.*
- (10) *The maximum KCCCC scholarship award amount for the 2014-2015 academic year shall not exceed:*
 - (a) *Six thousand eight hundred dollars (\$6,800) per academic year for a student attending a participating institution that is a nonprofit, independent college or university;*
 - (b) *Two thousand three hundred dollars (\$2,300) per academic year for a student attending a participating institution that is a public university extension campus or a regional postsecondary education center; or*

- (c) *Three thousand four hundred dollars (\$3,400) per academic year for a student attending a nonparticipating institution as prescribed in subsection (8) of this section.*
- (11) *The authority shall calculate the average annual percentage increase in tuition for the six (6) comprehensive universities as defined in KRS 164.001. The maximum KCCCC scholarship amounts in subsection (10) of this section shall be increased for each subsequent academic year by the total average percentage increase since the 2014-2015 academic year.*
- (12) *The authority shall award KCCCC scholarships chronologically based on when applicants submit the Free Application for Federal Student Aid until funds are exhausted, except prior recipients shall be awarded before any new KCCCC scholarship recipients. Applicants who received a KCCCC scholarship in the immediately preceding academic semester and apply by the deadline established by the authority shall be awarded first.*
- (13) *A student may receive a KCCCC scholarship for a maximum of five (5) full-time fall or spring academic semesters, or their equivalent under a trimester or quarter system, or until the completion of a first bachelor's degree, whichever occurs first. The authority shall determine the equivalent usage of academic semester eligibility for students enrolled less than full-time.*
- (14) *The authority may award KCCCC student services grants under this section, to the extent funds are available for that purpose, to a Kentucky Community and Technical College System institution that is physically located in the district.*
- (15) *The maximum annual KCCCC student services grant shall be one hundred fifty thousand dollars (\$150,000) per institution.*
- (16) *KCCCC student services grants shall be used for the following purposes:*
- (a) *To expand outreach services in high schools, in coordination with outreach services provided by the authority, to advise students of the advantages and importance of seeking a bachelor's degree and the opportunities to attain a bachelor's degree within the district;*
 - (b) *To expand advising resources to encourage completion of associate degree programs and transfer into bachelor's degree programs;*
 - (c) *To expand career advising resources to better link baccalaureate academic pursuits to career opportunities, especially within the district; and*
 - (d) *To provide multifaceted retention and student transfer initiatives to encourage associate degree completion leading to bachelor's degree programs.*
- (17) *Beginning November 1, 2015, and each year thereafter, the authority shall make an annual report to the Interim Joint Committee on Education on the status of the Kentucky Coal County College Completion Program.*
- (18) *Every four (4) years after implementation of the Kentucky Coal County College Completion Program, the authority shall evaluate the program to ensure the policy objectives are being realized and to suggest adjustments to maximize the increase in bachelor's degree completion rates.*
- (19) *Each participating institution, nonparticipating institution, and recipient of a KCCCC student services grant shall make data available to the authority for the report and evaluation described in subsections (17) and (18) of this section.*
- (20) *If any participating institution, nonparticipating institution, or recipient of a KCCCC student services grant does not demonstrate improved performance in student performance metrics, including but not limited to graduation and transfer rates, the authority may revoke the institution's eligibility for participation in the KCCCC scholarship or KCCCC student services grant.*
- (21) (a) *The coal county college completion scholarship fund is hereby created as a trust fund in the State Treasury to be administered by the Kentucky Higher Education Assistance Authority for the purpose of providing scholarships described in subsection (1)(a) of this section.*
- (b) *The trust fund shall consist of amounts appropriated annually from coal severance tax receipts to the extent that the enacted biennial budget of the Commonwealth includes such appropriations. The trust fund may also receive gifts and grants from public and private sources and federal funds. No general fund moneys shall be appropriated for this purpose.*

- (c) *Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund.*
 - (d) *Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section.*
- (22) (a) *The coal county college completion student services grant fund is hereby created as a trust fund in the State Treasury to be administered by the Kentucky Higher Education Assistance Authority for the purpose of providing grants described in subsection (1)(b) of this section.*
- (b) *The trust fund shall consist of amounts appropriated annually from coal severance tax receipts to the extent that the enacted biennial budget of the Commonwealth includes such appropriations. The trust fund may also receive gifts and grants from public and private sources and federal funds. No general fund moneys shall be appropriated for this purpose.*
 - (c) *Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9). Income earned from the investments shall be credited to the trust fund.*
 - (d) *Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated only for the purposes specified in this section.*

➔Section 2. KRS 164.7890 is amended to read as follows:

- (1) To ensure the public health purpose of access to pharmaceutical services in the coal-producing counties of the Commonwealth, which have been traditionally underserved for pharmaceutical services due to a shortage of pharmacists in the Commonwealth, the General Assembly hereby establishes a coal county scholarship program to provide eligible Kentucky students the opportunity to attend an accredited school of pharmacy or a provisionally accredited school of pharmacy in the Commonwealth, and to become certified pharmacists in the Commonwealth, provided that the scholarship recipient agrees to practice pharmacy in a coal-producing county for each year a scholarship is provided.
- (2) "Coal-producing county" as used in this section has the same meaning as in KRS 42.4592(1)(c).
- (3) The authority may award scholarships, to the extent funds are available for that purpose, to any person who:
 - (a) Is a Kentucky resident;
 - (b) *Is considered a permanent resident of a coal-producing county for at least one (1) year immediately preceding July 1 of the academic year in which the scholarship is made for students who first receive a scholarship under this section on or after July 1, 2014;*
 - (c)~~(b)~~ Is a United States citizen as determined by the institution in accordance with criteria established by the Council on Postsecondary Education for the purposes of admission and tuition assessment;
 - (d)~~(c)~~ Is enrolled or accepted for enrollment in a Pharm.D. program at an accredited institution or a provisionally accredited institution in the Commonwealth on a full-time basis, or is a student who has a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability;
 - (e)~~(d)~~ Agrees to render one (1) year of qualified service in a coal-producing county of the Commonwealth for each year the scholarship was awarded. "Qualified service" means a full-time practice in a coal-producing county of the Commonwealth of Kentucky as a licensed pharmacist for a majority of the calendar year, except that an individual having a disability defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose disability, certified by another licensed physician, prevents him or her from practicing full-time, shall be deemed to perform qualified service by practicing the maximum time permitted by the attending physician, in the coal-producing county; and
 - (f)~~(e)~~ Agrees to sign a promissory note as evidence of the scholarship awarded and the obligation to repay the scholarship amount or render pharmacy service as agreed in lieu of payment.
- (4) (a) Notwithstanding KRS 164.753(3), the amount of the scholarship shall not exceed forty percent (40%) of the approximate average of first professional year in-state tuition for all pharmacy schools in the United States. The authority shall establish, by administrative regulation a procedure for awarding

scholarships which shall give preference to students residing in coal-producing counties and which shall establish procedures to award scholarships should funding be insufficient to award scholarships to all eligible students. The authority may also, by administrative regulation, establish scholarship amounts based on demonstration of initial financial need by eligible students.

- (b) The actual amount of the scholarship awarded to each eligible student by the authority for each semester shall be based on the amount of funds available and the criteria established under paragraph (a) of this subsection.
- (5) (a) The authority shall require each student receiving a scholarship to execute a promissory note as evidence of the obligation.
- (b) The recipient shall render one (1) year of qualified service in a coal-producing county for each year the scholarship was awarded. Upon completion of each year of qualified service in a coal-producing county, the authority shall cancel the appropriate number of promissory notes. Promissory notes shall be canceled by qualified service in the order in which the promissory notes were executed. Service credit shall not include residency service.
 - (c) If a recipient fails to complete an eligible program of study, or fails to render service as a pharmacist as agreed in this subsection, the recipient shall be liable for the total repayment of the sum of all outstanding promissory notes and accrued interest.
- (6) Any person who is in default on any obligation to the authority under any program administered by the authority under KRS 164.740 to 164.785 shall not be awarded a scholarship or have a promissory note canceled until all financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of executing the promissory note.
- (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of the scholarship recipient's license to practice pharmacy, subject to the procedures set forth in KRS Chapter 311.
- (9) Notwithstanding KRS 164.753(3), the authority shall establish by administrative regulation procedures for the administration of this program, including but not limited to the execution of appropriate contracts and promissory notes, cancellation of obligations, the rate of repayment, and deferment of repayment of outstanding debt.
- (10) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum, except that if a judgment is rendered to recover payment, the judgment shall bear interest at the rate of five percent (5%) greater than the rate actually charged on the promissory note.
- (11) (a) The coal county pharmacy scholarship fund is hereby created as a revolving fund in the State Treasury to be administered by the Kentucky Higher Education Assistance Authority for the purpose of providing scholarships to qualifying students studying pharmacy in schools in the Commonwealth.
- (b) The fund shall consist of amounts transferred from coal severance tax receipts as provided in paragraph (c) of this subsection and any other proceeds from grants, contributions, appropriations, or other moneys made available for the fund.
 - (c) 1. Receipts from the coal severance tax levied under KRS 143.020 shall be transferred to the fund on an annual basis in an amount not to exceed the lesser of:
 - a. Four percent (4%) of the total annual coal severance tax revenues collected under KRS 143.020; or
 - b. The amount necessary to provide full funding for all students who qualify for a scholarship under this section, considering all other resources available.
 - 2. Transfers required by subparagraph 1. of this paragraph shall be made as follows:
 - a. On or before August 1 of each year, sixty-five percent (65%) of the amount of funding provided for in this paragraph shall be transferred to the fund; and

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- b. The remaining thirty-five percent (35%) shall be transferred on or before December 1 of each year.
3. The amount transferred shall be based upon the prevailing revenue estimate for coal severance tax receipts at the time each transfer is made.
- (d) Any unallotted or unencumbered balances in the trust fund shall be invested as provided in KRS 42.500(9).
- (e) Income earned from the investments shall be credited to the trust fund.
- (f) Notwithstanding KRS 45.229, any fund balance at the close of the fiscal year shall not lapse but shall be *transferred to the Osteopathic Medicine Scholarship Program described in KRS 164.7891 within ninety (90) days of the end of the fiscal year*~~carried forward to the next fiscal year~~.
- (g) All amounts included in the fund shall be continuously appropriated only for the purposes specified in this section.
- (h) A general statement that all continuing appropriations are repealed, discontinued, or suspended shall not operate to repeal, discontinue, or suspend this fund or to repeal this action.
- (i) All moneys repaid to the authority under this section shall be added to the fund.

➔Section 3. Whereas the scholarship program described in Section 2 of this Act is administered on a fiscal year from July 1 through June 30 and the amendments to the program contained in Section 2 will impact the administration of the program, an emergency is declared to exist, and Section 2 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor April 25, 2014.