

**Policies
of the
Board of Regents**



Murray
MURRAY STATE UNIVERSITY™

Section 1

The Regents

1.1 SUBJECT: BYLAWS OF BOARD OF REGENTS

Date Adopted: November 13, 1982
Date Amended: May 19, 1984
Date Amended: November 3, 1984
Date Amended: May 12, 1990
Date Amended: February 29, 2008
Date Amended: August 26, 2011

References: Minute Book: 28 Page: 126
Minute Book: 31 Page: 49
Minute Book: 32 Page: 52
Minute Book: 46 Page: 15

Pertinent sections of Kentucky Revised Statutes Chapters 61, 164 and 164A, commonly called the "Open Meetings" law, "State Universities and Colleges" and "Higher Education Finance," respectively, are set out as APPENDICES to these Bylaws.

A. Officers.

The officers of the Board of Regents shall be comprised of the following and shall have the following duties:

1. Chair. The Chair
 - a. Calls special meetings upon written request of the President or any two members of the Board; (KRS 164.340)
 - b. Presides at all meetings; and
 - c. Performs such other functions incidental to the office or as specifically authorized by the full Board.
2. Vice Chair. The Vice Chair acts for the Chair when the latter is absent from a meeting.
3. Secretary. The Secretary is elected by the Board and need not be a member.
 - a. The Secretary's responsibilities shall include but not be limited to:
 - i. Keeping and preparing of all books, records, and papers belonging to the Board and preparing, under the direction of the Board, all reports and estimates;
 - ii. Preparation of a journal of the proceedings of the Board setting forth an accurate record of votes and actions taken;
 - iii. Preparation and distribution of the agenda for meetings as developed by the President and the Chair;
 - iv. Preparation and distribution of required notices of meetings; and
 - v. Attendance at all meetings and sessions of the Board and certification of compliance with KRS 61.810, 61.815, 61.820, and 61.823
4. Treasurer. The Treasurer is appointed by the Board, serves at the pleasure of the Board, and shall not be a member of the Board. (KRS 164.330)

The Treasurer of each Board of Regents shall receive and disburse all money under the control of the Board, perform all acts that pertain to his office under the direction of the Board, and make timely reports of the same to the Board on a schedule established by the Board. (KRS 164.420)

B. Time and Procedures for Election of Officers.

1. All officers shall be elected annually at the spring meeting and shall serve for one year, commencing July 1 following their election.
2. A separate election shall be conducted to elect each of the officers: Chair, Vice Chair, and Secretary. Procedural guidelines are as follows:
 - a. The Chair declares that nominations are in order;
 - b. The Chair recognizes each member for the purpose of making a nomination; recognition of members shall be in the same order as the roll call (alphabetical);
 - c. Nominations require no second;
 - d. Any member nominated for any office may withdraw his name from consideration. However, a member nominated will not be recognized for that purpose until all members have had an opportunity to make nominations;
 - e. If after each member has had a roll call opportunity to make a nomination, and only one name has been placed in nomination for that particular office, the Chair shall declare that person elected by unanimous consent; and
 - f. If more than one name is placed in nomination for a particular office, a vote shall be taken. Names shall be voted upon in the same order in which the nomination occurred. The nominee first receiving an absolute majority shall be declared elected.
 - g. An election for Vice Chair and Secretary shall be held at the organizational meeting required within 30 days of the appointment of a new member. (KRS 164.430)

C. Vacancies.

If the Office of Chair becomes vacant for any reason, the Vice Chair shall assume the Office of Chair and serve in that capacity for the unexpired term. In that event, or if for any other reason the Office of Vice Chair becomes vacant, an election to fill that Office for the unexpired term will be held at the next meeting. In the event both the Chair and the Vice Chair are absent, the member with the longest period of service on the Board will serve temporarily as Chair until such time as elections may be held.

D. Meetings.

1. Time and Place. Meetings of the Board of Regents and its committees are open to the public unless closed pursuant to the provisions of KRS Chapter 61. Unless otherwise announced, the Board meets on the second floor of Pogue Library on Murray State's campus. The Board shall set a meeting schedule that includes at least four meetings a year. (KRS 164.340) The Board shall meet within thirty days following the appointment of a new member. (KRS 164.340) Special meetings are called by the Chair upon written request of the President or any two members of the Board and at such special meetings the Board may transact any and all business that it might transact at a regular meeting.
2. Closed Sessions. No final action will be taken at any closed session of the Board. However, the Board may from time to time conduct closed sessions for the purposes authorized by KRS 61.810; e.g., engaging in:

- a. Deliberations on the future acquisition or sale of real property by the University, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency.
- b. Discussions of proposed or pending litigation against or on behalf of the University.
- c. Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member or student without restricting that employee's, member's or student's right to a public hearing if requested, provided that this exception is designed to protect the reputation of individual persons and shall not be interpreted to permit discussion of general personnel matters in secret.
In conducting any closed session under c. relating to an individual employee or member, the following requirements shall be met:

“(1) Notice shall be given in regular open meetings of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of KRS 61.810 authorizing the closed session;

“(2) Closed sessions may be held only after a motion is made and carried by a majority vote in open, public session;

“(3) No final action may be taken at a closed session;

“(4) No matters may be discussed at a closed session other than those announced prior to convening the closed session.”

3. Quorum. A simple majority of the members of the Board (six members) constitutes a quorum for transaction of business. (KRS 164.340)
4. Voting. Each member of the Board casts one vote. Ordinarily, routine Board action is taken by voice vote. However, any member may request a roll call vote on any question. (KRS 164.450) A simple majority of a quorum present and voting is required for any action except where contrary to KRS or these Bylaws. However, a roll call recodation of "yeas" and "nays" will be taken, and a majority of all members of the Board (six members) must vote affirmatively to effect:
 - a. An appropriation of money;
 - b. Making a contract that requires an appropriation or disbursement of money; and
 - c. Employment or dismissal of a teacher. (KRS 164.340)
5. Procedures. The most recent version of *Robert's Rules of Order* shall be observed in conducting the business of the Board of Regents except as these may be modified by regulations adopted by the Board of Regents.

A motion is in order on all substantive proposals to:

- a. Approve or disapprove a proposal;
- b. Postpone consideration (temporarily or indefinitely);
- c. Amend;
- d. Refer to a committee or to the President (with or without instruction); and
- e. Table.

The Chair, with the approval of the Board, may designate a Parliamentarian who may be a member of the faculty. General rules of parliamentary procedures are observed at Board meetings. However, any rule of order may be suspended and official action taken in any manner and in any order agreed upon by an affirmative vote of two-thirds of the members of the Board or if any are absent by

a unanimous consent of the members present and voting at a meeting. The Chair, in making his rulings on parliamentary questions, shall refer to and be guided by the most current edition of *Robert's Rules of Order*.

E. Committees.

The Chair of the Board shall at the first regular meeting of the Board of Regents following his election appoint members of the Board to standing committees of the Board of Regents. In addition the Chair will appoint members to such special committees as the Board may from time to time deem appropriate. The Chair of the Board and the President of the University are ex officio members of every committee, except the President shall be a non-voting member. The standing committees of the Board of Regents and their duties are:

1. Academic Affairs -- Academic program approval recommendations, academic policy review including admission standards, and international programs including, study abroad programs and inter-institutional relationships and agreements.
2. Audit and Compliance -- External audit selection (subject to Board approval), internal audit oversight (in concert with the President), and policy compliance matters, particularly relating to non-discrimination and affirmative action issues.
3. Buildings and Grounds -- Oversight of facilities and property, with particular responsibilities for major expenditures of capital funds and property acquisition.
4. Finance -- Fulfill fiduciary responsibilities relative to the budget adoption and maintenance, the investment portfolio, and other financial matters and recommend appropriate action to the full Board.
5. Institutional Advancement -- Oversight of university alumni, development, marketing and public relations initiatives, as well as governmental relationships with regional, state, and federal entities.
6. Regional Services -- Oversight responsibilities for off-campus centers and public service activities including regional stewardship initiatives.
7. Enrollment Management and Student Success -- Review and approve student life policies, oversight of enrollment management programs, and serving as the "Student Disciplinary Committee" in connection with appeals of student suspension or expulsion for disciplinary reasons.

Pursuant to KRS 164.370, a student suspended or expelled for disciplinary reasons may appeal the decision to the Board of Regents. The appeal will be instituted by the student's presenting a detailed statement of the grounds for appeal to the President of the University no later than five working days after the date of the decision of the University Appeals Board. The President will advise the members of the Board of Regents and refer the appeal to the members of the Student Disciplinary Committee.

The Student Disciplinary Committee will review the appeal. The Student Disciplinary Committee may determine from the statement of appeal that the appeal can be decided based upon a review of the previous proceedings. In that case, it will afford all parties the opportunity to present arguments, will review the record and the arguments presented, and will submit its recommended outcome to the Board of Regents which may accept or reject the recommendation or determine that a hearing or additional proceedings are warranted. If the Student Disciplinary Committee believes that a hearing or other proceedings are warranted, it will refer the matter to the Board of Regents. The Board will develop its rules of procedure for any matter before it. The final decision in all such appeals will be made by the Board of Regents.

All Committees whose recommendations have budgetary implications shall report those recommendations to the Finance Committee prior to submission for action to the full Board.

The Board may at any time establish such ad hoc committees as it deems necessary or desirable.

F. Amendments.

Amendments of these Bylaws may be proposed by any member at any duly constituted meeting of the Board but will not be acted upon until the next meeting. Adoption of amendments shall require a vote of a majority of the members.

1.2 SUBJECT: FACULTY REGENT VOTING AUTHORITY

Date Adopted: March 18, 1978

Date Amended: February 29, 2008

Reference: Minute Book: 21 Page: 169

The Faculty Regent shall have voting authority on all matters coming before the Board, except on matters relating to or entailing issues of individual teaching and research faculty compensation. Included in such exception is the compensation component of appointments, sabbatical leaves, and promotion decisions involving any member of the teaching or research faculty of the rank of assistant professor or above. The prohibition does not extend to general compensation issues, such as consideration of the Annual Budget, which come before the Board.

The Faculty Regent's voting authority extends to all other personnel items related to the teaching and research faculty including the appointments of the President, Vice Presidents, and Deans. While the Faculty Regent may vote on the appointment of these officers, the Regent may not vote on the salary of those individuals who are members of the teaching and research faculty.

The Regent can request that any motion which includes compensation for a particular member of the teaching or research faculty be divided so that the Regent can vote on the acceptable part (e.g., promotion, hire) and not the objectionable part (e.g., salary). Alternatively, the Regent can vote on the motion but must make it clear the vote relates only to the acceptable part and that he/she abstains from salary issues due to the limitations of statute.

1.3 SUBJECT: DISTRIBUTION OF BOARD MINUTES

Date Adopted: May 8, 1971

Date Amended: February 29, 2008

Reference: Minute Book: 15 Page: 403

All Minutes of the Board of Regents shall after their approval by the Board of Regents and upon the direction of the Chair be open to inspection by any citizen according to established procedures for such inspection under existing statutes governing open records and shall be made available online on the University's web site. All Regents shall be provided with approved copies of all Minutes of their actions. Similarly, all other public records, as provided by Kentucky Revised Statutes, shall be made available to the public in accordance with those statutes.

1.4 SUBJECT: ATHLETIC TICKETS

Date Adopted: October 7, 1983
Date Amended: February 29, 2008

Reference: Minute Book: 30 Page: 244

**TICKETS TO ATHLETIC EVENTS
FOR BOARD OF REGENTS**

The policy of the Board of Regents with respect to the attendance of Board members at athletic events is as follows:

- A. That there be established a joint committee to be composed of the members of the Athletic Committee of the Board of Regents, together with the Athletic Director and the Associate Athletic Director for External Affairs. This committee shall be empowered to make a determination as to the availability of seats on a year-to-year basis and shall further be empowered to make allocations of seats to current and future members of the Board of Regents, said seats not to exceed four (4) in number for any individual member of the Board, but may be less as circumstances dictate.
- B. As to past members of the Board of Regents who are currently receiving seating at athletic events, the Committee is authorized and empowered to continue such arrangements if it be deemed in the best interest of the University, taking into consideration all relevant factors which shall include, but not be limited to, the desirability of the University maintaining continuous contact with past members of the Board of Regents, and the availability of seating.
- C. The Committee will report its determinations annually to the full Board at its fall meeting.

**1.5 SUBJECT: MEMBER OF ASSOCIATION OF GOVERNING BOARDS OF
UNIVERSITIES AND COLLEGES**

Date Adopted: August 4, 1972

Membership Terminated: November 14, 1992

Membership Renewed: January 2007

Date Amended: February 29, 2008

Reference: Minute Book: 16 Page: 158

Reference: Minute Book: 53 Page: 28

That the Board of Regents of Murray State University shall be a member of the Association of Governing Boards of Universities and Colleges.

Appendix A
to Section I of the
Policies and Procedures of the Board of Regents

pertinent sections of

Kentucky Revised Statutes

“Open Meetings Act”

61.805 Definitions for KRS 61.805 to 61.850.

As used in KRS 61.805 to 61.850, unless the context otherwise requires:

- (1) "Meeting" means all gatherings of every kind, including video teleconferences, regardless of where the meeting is held, and whether regular or special and informational or casual gatherings held in anticipation of or in conjunction with a regular or special meeting;
- (2) "Public agency" means:
 - (a) Every state or local government board, commission, and authority;
 - (b) Every state or local legislative board, commission, and committee;
 - (c) Every county and city governing body, council, school district board, special district board, and municipal corporation;
 - (d) Every state or local government agency, including the policy-making board of an institution of education, created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act;
 - (e) Any body created by or pursuant to state or local statute, executive order, ordinance, resolution, or other legislative act in the legislative or executive branch of government;
 - (f) Any entity when the majority of its governing body is appointed by a "public agency" as defined in paragraph (a), (b), (c), (d), (e), (g), or (h) of this subsection, a member or employee of a "public agency," a state or local officer, or any combination thereof;
 - (g) Any board, commission, committee, subcommittee, ad hoc committee, advisory committee, council, or agency, except for a committee of a hospital medical staff or a committee formed for the purpose of evaluating the qualifications of public agency employees, established, created, and controlled by a "public agency" as defined in paragraph (a), (b), (c), (d), (e), (f), or (h) of this subsection; and
 - (h) Any interagency body of two (2) or more public agencies where each "public agency" is defined in paragraph (a), (b), (c), (d), (e), (f), or (g) of this subsection;
- (3) "Action taken" means a collective decision, a commitment or promise to make a positive or negative decision, or an actual vote by a majority of the members of the governmental body; and
- (4) "Member" means a member of the governing body of the public agency and does not include employees or licensees of the agency.
- (5) "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 245, sec. 1, effective July 15, 1994. – Amended 1992 Ky. Acts ch. 162, sec. 2, effective July 14, 1992. -- Created 1974 Ky. Acts ch. 377, sec. 1.

61.810 Exceptions to open meetings.

- (1) All meetings of a quorum of the members of any public agency at which any public business is discussed or at which any action is taken by the agency, shall be public meetings, open to the public at all times, except for the following:
 - (a) Deliberations for decisions of the Kentucky Parole Board;
 - (b) Deliberations on the future acquisition or sale of real property by a public agency, but only when publicity would be likely to affect the value of a specific piece of property to be acquired for public use or sold by a public agency;
 - (c) Discussions of proposed or pending litigation against or on behalf of the public agency;
 - (d) Grand and petit jury sessions;
 - (e) Collective bargaining negotiations between public employers and their employees or their representatives;
 - (f) Discussions or hearings which might lead to the appointment, discipline, or dismissal of an individual employee, member, or student without restricting that employee's, member's, or student's right to a public hearing if requested. This exception shall not be interpreted to permit discussion of general personnel matters in secret;
 - (g) Discussions between a public agency and a representative of a business entity and discussions concerning a specific proposal, if open discussions would jeopardize the siting, retention, expansion, or upgrading of the business;
 - (h) State and local cabinet meetings and executive cabinet meetings;
 - (i) Committees of the General Assembly other than standing committees;
 - (j) Deliberations of judicial or quasi-judicial bodies regarding individual adjudications or appointments, at which neither the person involved, his representatives, nor any other individual not a member of the agency's governing body or staff is present, but not including any meetings of planning commissions, zoning commissions, or boards of adjustment;
 - (k) Meetings which federal or state law specifically require to be conducted in privacy;
 - (l) Meetings which the Constitution provides shall be held in secret; and
 - (m) That portion of a meeting devoted to a discussion of a specific public record exempted from disclosure under KRS 61.878(1)(m). However, that portion of any public agency meeting shall not be closed to a member of the Kentucky General Assembly.
- (2) Any series of less than quorum meetings, where the members attending one (1) or more of the meetings collectively constitute at least a quorum of the members of the public agency and where the meetings are held for the purpose of avoiding the requirements of subsection (1) of this section, shall be subject to the requirements of subsection (1) of this section. Nothing in this subsection shall be construed to

prohibit discussions between individual members where the purpose of the discussions is to educate the members on specific issues.

Effective: March 16, 2005

History: Amended 2005 Ky. Acts ch. 93, sec. 1, effective March 16, 2005. -- Amended 1992 Ky. Acts ch. 162, sec. 3, effective July 14, 1992. -- Created 1974 Ky. Acts ch. 377, sec. 2.

Legislative Research Commission Note (3/16/2005). The Office of the Kentucky Attorney General requested that amendments in 2005 Ky. Acts ch. 93, sec. 1, to the arrangement of the paragraphs of subsection (1) of this section be changed. The change was requested "in the interest of preventing confusion to the public and public agencies" and was made by the Statute Reviser under the authority of KRS 7.136.

61.815 Requirements for conducting closed sessions.

- (1) Except as provided in subsection (2) of this section, the following requirements shall be met as a condition for conducting closed sessions authorized by KRS 61.810:
 - (a) Notice shall be given in regular open meeting of the general nature of the business to be discussed in closed session, the reason for the closed session, and the specific provision of KRS 61.810 authorizing the closed session;
 - (b) Closed sessions may be held only after a motion is made and carried by a majority vote in open, public session;
 - (c) No final action may be taken at a closed session; and
 - (d) No matters may be discussed at a closed session other than those publicly announced prior to convening the closed session.
- (2) Public agencies and activities of public agencies identified in paragraphs (a), (c), (d), (e), (f), but only so far as (f) relates to students, (g), (h), (i), (j), (k), (l), and (m) of subsection (1) of KRS 61.810 shall be excluded from the requirements of subsection (1) of this section.

Effective: March 16, 2005

History: Amended 2005 Ky. Acts ch. 93, sec. 2, effective March 16, 2005. -- Amended 1992 Ky. Acts ch. 162, sec. 4, effective July 14, 1992. -- Created 1974 Ky. Acts ch. 377, sec. 3.

61.820 Schedule of regular meetings to be made available.

All meetings of all public agencies of this state, and any committees or subcommittees thereof, shall be held at specified times and places which are convenient to the public, and all public agencies shall provide for a schedule of regular meetings by ordinance, order, resolution, bylaws, or by whatever other means may be required for the conduct of business of that public agency. The schedule of regular meetings shall be made available to the public.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 162, sec. 5, effective July 14, 1992. -- Created 1974 Ky. Acts ch. 377, sec. 4.

61.825 Repealed, 1992.

Catchline at repeal: Requirements for holding special meetings.

History: Repealed 1992 Ky. Acts ch. 162, sec. 9, effective July 14, 1992. -- Created 1974 Ky. Acts ch. 377, sec. 5.

61.826 Video teleconferencing of meetings.

- (1) A public agency may conduct any meeting, other than a closed session, through video teleconference.
- (2) Notice of a video teleconference shall comply with the requirements of KRS 61.820 or 61.823 as appropriate. In addition, the notice of a video teleconference shall:
 - (a) Clearly state that the meeting will be a video teleconference; and
 - (b) Precisely identify the video teleconference locations as well as which, if any, location is primary.
- (3) The same procedures with regard to participation, distribution of materials, and other matters shall apply in all video teleconference locations.
- (4) Any interruption in the video or audio broadcast of a video teleconference at any location shall result in the suspension of the video teleconference until the broadcast is restored.

Effective: July 15, 1994

History: Created 1994 Ky. Acts ch. 245, sec. 2, effective July 15, 1994.

61.830 Repealed, 1992.

Catchline at repeal: Action voidable for noncompliance.

History: Repealed 1992 Ky. Acts ch. 162, sec. 9, effective July 14, 1992. -- Created 1974 Ky. Acts ch. 377, sec. 6.

61.835 Minutes to be recorded -- Open to public.

The minutes of action taken at every meeting of any such public agency, setting forth an accurate record of votes and actions at such meetings, shall be promptly recorded and such records shall be open to public inspection at reasonable times no later than immediately following the next meeting of the body.

History: Created 1974 Ky. Acts ch. 377, sec. 7.

61.840 Conditions for attendance.

No condition other than those required for the maintenance of order shall apply to the attendance of any member of the public at any meeting of a public agency. No person may be required to identify himself in order to attend any such meeting. All agencies shall provide meeting room conditions which insofar as is feasible allow effective public observation of the public meetings. All agencies shall permit news media coverage, including but not limited to recording and broadcasting.

History: Created 1974 Ky. Acts ch. 377, sec. 8.

61.845 Repealed, 1992.

Catchline at repeal: Enforcement.

History: Repealed 1992 Ky. Acts ch. 162, sec. 9, effective July 14, 1992. -- Created
1974 Ky. Acts ch. 377, sec. 9.

61.846 Enforcement by administrative procedure -- Appeal.

- (1) If a person enforces KRS 61.805 to 61.850 pursuant to this section, he shall begin enforcement under this subsection before proceeding to enforcement under subsection (2) of this section. The person shall submit a written complaint to the presiding officer of the public agency suspected of the violation of KRS 61.805 to 61.850. The complaint shall state the circumstances which constitute an alleged violation of KRS 61.805 to 61.850 and shall state what the public agency should do to remedy the alleged violation. The public agency shall determine within three (3) days, excepting Saturdays, Sundays, and legal holidays, after the receipt of the complaint whether to remedy the alleged violation pursuant to the complaint and shall notify in writing the person making the complaint, within the three (3) day period, of its decision. If the public agency makes efforts to remedy the alleged violation pursuant to the complaint, efforts to remedy the alleged violation shall not be admissible as evidence of wrongdoing in an administrative or judicial proceeding. An agency's response denying, in whole or in part, the complaint's requirements for remedying the alleged violation shall include a statement of the specific statute or statutes supporting the public agency's denial and a brief explanation of how the statute or statutes apply. The response shall be issued by the presiding officer, or under his authority, and shall constitute final agency action.
- (2) If a complaining party wishes the Attorney General to review a public agency's denial, the complaining party shall forward to the Attorney General a copy of the written complaint and a copy of the written denial within sixty (60) days from receipt by that party of the written denial. If the public agency refuses to provide a written denial, a complaining party shall provide a copy of the written complaint within sixty (60) days from the date the written complaint was submitted to the presiding officer of the public agency. The Attorney General shall review the complaint and denial and issue within ten (10) days, excepting Saturdays, Sundays, and legal holidays, a written decision which states whether the agency violated the provisions of KRS 61.805 to 61.850. In arriving at the decision, the Attorney General may request additional documentation from the agency. On the day that the Attorney General renders his decision, he shall mail a copy to the agency and a copy to the person who filed the complaint.
- (3)
 - (a) If a public agency agrees to remedy an alleged violation pursuant to subsection (1) of this section, and the person who submitted the written complaint pursuant to subsection (1) of this section believes that the agency's efforts in this regard are inadequate, the person may complain to the Attorney General.
 - (b) The person shall provide to the Attorney General:
 1. The complaint submitted to the public agency;
 2. The public agency's response; and
 3. A written statement of how the public agency has failed to remedy the alleged violation.
 - (c) The adjudicatory process set forth in subsection (2) of this section shall govern as if the public agency had denied the original complaint.

- (4) (a) A party shall have thirty (30) days from the day that the Attorney General renders his decision to appeal the decision. An appeal within the thirty (30) day time limit shall be treated as if it were an action brought under KRS 61.848.
- (b) If an appeal is not filed within the thirty (30) day time limit, the Attorney General's decision, as to whether the agency violated the provisions of KRS 61.805 to 61.850, shall have the force and effect of law and shall be enforceable in the Circuit Court of the county where the public agency has its principal place of business or where the alleged violation occurred.
- (5) A public agency shall notify the Attorney General of any actions filed against that agency in Circuit Court regarding enforcement of KRS 61.805 to 61.850.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 162, sec. 7, effective July 14, 1992.

61.848 Enforcement by judicial action -- De novo determination in appeal of Attorney General's decision -- Voidability of action not substantially complying -- Awards in willful violation actions.

- (1) The Circuit Court of the county where the public agency has its principal place of business or where the alleged violation occurred shall have jurisdiction to enforce the provisions of KRS 61.805 to 61.850, as they pertain to that public agency, by injunction or other appropriate order on application of any person.
- (2) A person alleging a violation of the provisions of KRS 61.805 to 61.850 shall not have to exhaust his remedies under KRS 61.846 before filing suit in a Circuit Court. However, he shall file suit within sixty (60) days from his receipt of the written denial referred to in subsections (1) and (2) of KRS 61.846 or, if the public agency refuses to provide a written denial, within sixty (60) days from the date the written complaint was submitted to the presiding officer of the public agency.
- (3) In an appeal of an Attorney General's decision, where the appeal is properly filed pursuant to subsection (4)(a) of KRS 61.846, the court shall determine the matter de novo.
- (4) Except as otherwise provided by law or rule of court, proceedings arising under this section take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date.
- (5) Any rule, resolution, regulation, ordinance, or other formal action of a public agency without substantial compliance with the requirements of KRS 61.810, 61.815, 61.820, and KRS 61.823 shall be voidable by a court of competent jurisdiction.
- (6) Any person who prevails against any agency in any action in the courts regarding a violation of KRS 61.805 to 61.850, where the violation is found to be willful, may be awarded costs, including reasonable attorneys' fees, incurred in connection with the legal action. In addition, it shall be within the discretion of the court to award the person an amount not to exceed one hundred dollars (\$100) for each instance in which the court finds a violation. Attorneys' fees, costs, and awards under this subsection shall be paid by the agency responsible for the violation.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 162, sec. 8, July 14, 1992.

61.850 Construction.

KRS 61.805 to 61.850 shall not be construed as repealing any of the laws of the Commonwealth relating to meetings but shall be held and construed as ancillary and supplemental thereto.

History: Created 1974 Ky. Acts ch. 377, sec. 11.

Appendix B
to Section I of the
Policies and Procedures of the Board of Regents

pertinent sections of

Kentucky Revised Statutes

“State Universities and Colleges”

164.281 Public institution of postsecondary education criminal history background checks -- Initial hires, contractors, employees, volunteers, visitors -- Disclosures -- Termination.

- (1) Each public institution of postsecondary education shall require a criminal history background check on all initial hires.
 - (a) The background check shall consist of a state criminal history background check and a national criminal history background check.
 - (b) Applications shall authorize the appropriate agency to search police records for convictions and make results known to the institution, and the institution may require the applicant to bear the cost of the criminal history background check.
- (2) Each public institution of postsecondary education may require a criminal history background check on a contractor, employee of a contractor, volunteer for the institution or a program of the institution, or visitor, subject to the same terms and conditions as in subsection (1) of this section.
- (3) If, upon review of the results of the criminal history background check, a public institution of postsecondary education finds that the applicant, contractor, employee of a contractor, volunteer, or visitor has been convicted of, pled guilty to, or entered an Alford plea to a sex crime as specified in KRS 17.500 or a violent offense as specified in KRS 439.3401, the institution may:
 - (a) Deny employment or modify the conditions of employment to provide for appropriate supervision;
 - (b) Deny a contractor or a contractor's employee a permit to enter the institution or its grounds, or modify the contract to provide for appropriate supervision;
 - (c) Prohibit a person from volunteering or require the person to agree to appropriate supervision; or
 - (d) Prohibit a person from visiting the institution or its grounds, or require that person to agree to appropriate supervision.
- (4) Each application or renewal form, provided by the institution to an applicant for employment, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."
- (5) If the institution requires a criminal history background check for contractors, employees of contractors, volunteers, or visitors, the institution shall provide to the prospective person or organization the following statement: "FOR THIS TYPE OF CONTRACT OR FOR BEING AN EMPLOYEE OF A CONTRACTOR, A VOLUNTEER FOR THE INSTITUTION OR AN INSTITUTIONAL PROGRAM, OR A VISITOR OF THE INSTITUTION, THIS INSTITUTION REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK."
- (6) If an employee of the public institution of postsecondary education is convicted of, pleads guilty to, enters an Alford plea to, or is adjudicated guilty of an offense

specified in subsection (3) of this section, the employment of that person may, at the discretion of the institution, be terminated as of the date of the conviction.

- (7) A private college or university located in the Commonwealth may utilize at its discretion any of the provisions of this section, providing that it does so in a written institutional document.

Effective: July 12, 2006

History: Created 2006 Ky. Acts ch. 182, sec. 19, effective July 12, 2006.

164.282 Hepatitis B information to be provided to first-time students.

- (1) All public and independent postsecondary education institutions shall provide first-time, full-time students with information about hepatitis B disease. The information shall include:
 - (a) Symptoms and treatment;
 - (b) The risk factors associated with hepatitis B acquisition and transmission; and
 - (c) Current recommendations from the United States Centers for Disease Control and Prevention, or the American College Health Association regarding the availability and effectiveness of a hepatitis B vaccination.
- (2) Nothing in this section shall be construed to require the Cabinet for Health and Family Services or the postsecondary institutions to provide or purchase vaccinations for hepatitis B.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 136, effective June 20, 2005. -- Created 2004 Ky. Acts ch. 57, sec. 1, effective July 13, 2004.

164.283 Student academic records confidential -- Exceptions.

- (1) As used in this section unless the context otherwise requires:
 - (a) "Academic" means a student's official record of academic performance, including, but not limited to transcript of grades or other action taken by the institution directly related to academic performance. The term "academic" does not include any nonacademically-related action the institution may take.
 - (b) "Universities and colleges" means all state supported postsecondary educational institutions in Kentucky.
 - (c) "Institution" means all public supported institutions of higher learning in Kentucky.
- (2) All student academic records shall be confidential and shall not require a student's Social Security number to identify the student, with the exception of the exemptions stated in subsections (3) to (9) of this section, and shall not be released by any public supported institution of higher education in Kentucky, to any person, organization, institution, group, or agency, except with the express consent of the individual student. This confidentiality shall apply only to student academic records, including, but not limited to, official transcript of grades.
- (3) All student academic records shall be made available upon request to any agency of the federal or state government for the purpose of determining a student's eligibility for military service and shall include making such records available to local draft boards. This authority shall be limited only to determining the student's eligibility for military service and shall not be extended, except with the individual student's consent as specified in subsection (2) of this section.
- (4) Any institution may provide the legal parents of any student under twenty-one (21) years of age with a copy of the student's academic record.
- (5) All student academic records shall be made available to any federal, state, or local law enforcement agency, the Department of Juvenile Justice, and any court of law upon written request.
- (6) All student academic records shall be made available upon request to any grantor of scholarships or loans based upon the maintenance of a satisfactory level of scholarship, but shall be for the official use of the grantors only.
- (7) All student academic records shall be made available upon request to a public or private junior college from which the individual student was graduated or to a public or private secondary school from which the individual student was graduated.
- (8) All student academic records shall be made available upon request to the Council on Postsecondary Education for professional academic research.
- (9) All student academic records shall be made available upon request to any official of the university or college in which the student is enrolled who is directly concerned with the student's academic progress. This authority shall include but is not limited to the individual student's academic adviser.

- (10) This section shall be applicable to all academic records maintained by all public postsecondary educational institutions in Kentucky.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 606, sec. 17, effective July 15, 1998. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 89, effective May 30, 1997. -- Amended 1988 Ky. Acts ch. 266, sec. 1, effective July 15, 1988. -- Amended 1978 Ky. Acts ch. 155, sec. 104, effective June 17, 1978. -- Created 1970 Ky. Acts ch. 51, sec. 1.

164.284 Waiver of tuition and fees for person sixty-five or older -- Conditions.

- (1) When any person sixty-five (65) years of age or older, who is a resident of the Commonwealth, is admitted and enrolls as a student in any state-supported institution of higher learning in this Commonwealth, the board of trustees of the institution or other appropriate institution officials shall waive all tuition charges and fees for such student, except as provided in subsection (2) of this section.
- (2) In the event that classes are full or the granting of free admission requires additional units, the institution may deny admission under this section.

History: Created 1976 Ky. Acts ch. 319, sec. 1.

164.2841 Free tuition at state-supported school for survivor of police officer, firefighter, or volunteer firefighter killed in line of duty -- Free tuition at state-supported school for survivor of other state-administered retirement system participants who died as a result of duty-related injury -- Limitation.

- (1)
 - (a) Any person whose parent or any nonmarried widow or widower whose spouse was a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter and who was killed while in active service or training for active service or who died as a result of a service-connected disability shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution. The provisions of this subsection shall apply to any firefighter or volunteer firefighter who is killed or dies under the conditions covered in this subsection on July 1, 1989, or thereafter.
 - (b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the Kentucky Justice and Public Safety Cabinet, the appropriate city or county law enforcement agency which employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.
- (2)
 - (a) Any person whose parent or any nonmarried widow or widower whose spouse was an employee participating in a state-administered retirement system, and not otherwise covered by subsection (1) of this section, and who died as a result of a duty-related injury as described in KRS 61.621 shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution.
 - (b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the employing agency or the appropriate retirement system.
- (3) If one so admitted to a state-supported university, community college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 85, sec. 171, effective June 26, 2007. -- Amended 2001 Ky. Acts ch. 7, sec. 4, effective June 21, 2001. -- Amended 1992 Ky. Acts ch. 381, sec. 9, effective July 14, 1992; ch. 197, sec. 1, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 143, sec. 1, effective July 13, 1990. -- Created 1986 Ky. Acts ch. 324, sec. 2, effective April 4, 1986.

164.2842 Free tuition at state-supported school for survivor of police officer, firefighter, or volunteer firefighter permanently and totally disabled in line of duty -- Free tuition at state-supported school for survivor of other state-administered retirement system participants disabled as a result of duty-related injury.

- (1) (a) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (b) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice and Public Safety Cabinet, the appropriate city or county law enforcement agency which employed the disabled, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer, firefighter, or volunteer firefighter at the time of death. The parent's or spouse's service and rating shall be evidenced by certification from the records of the Kentucky Justice and Public Safety Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.
- (c) In the absence of certification of permanent and total disability by the Kentucky Office of Workers' Claims, the Kentucky Justice and Public Safety Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.
- (d) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.

- (e) To entitle a spouse or child to benefits under this section the disabled law enforcement officer, firefighter, or volunteer firefighter shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.
- (2) (a) The spouse, regardless of age, and any child of a person who was an employee participating in a state-administered retirement system and not otherwise covered by subsection (1) of this section and who was disabled as a result of a duty-related injury as described in KRS 61.621, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (b) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.
- (3) The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 85, sec. 172, effective June 26, 2007. -- Amended 2001 Ky. Acts ch. 7, sec. 5, effective June 21, 2001. -- Amended 1994 Ky. Acts ch. 181, sec. 100, effective April 4, 1994. -- Amended 1992 Ky. Acts ch. 381, sec. 10, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 143, sec. 2, effective July 13, 1990. -- Created 1986 Ky. Acts ch. 324, sec. 3, effective April 4, 1986.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

164.2845 Tuition-free courses for supervising teachers and resource teachers.

- (1) In recognition of valuable service to the preparation of teachers and the need for all teachers to have continual professional growth, a supervising teacher or a resource teacher for teacher interns may, with prior approval of the course-offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution and pay no tuition. The postsecondary institution shall waive the tuition up to a maximum of six (6) credit hours.
- (2) The teachers covered in this section may exercise the tuition-free course option only if there is available space within a given course offering. A postsecondary institution shall not be required to establish a course to meet teacher requests.
- (3) The tuition-free courses may be used to partially satisfy requirements for an advanced degree.
- (4) Each public postsecondary education institution shall establish the procedures for implementing the provisions of this section, effective August 1, 2000.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 527, sec. 9, effective July 14, 2000.

164.2847 Waiver of tuition and mandatory student fees for Kentucky foster or adopted children.

- (1) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Kentucky foster or adopted child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution, and if:
 - (a) The student's family receives state-funded adoption assistance under KRS 199.555;
 - (b) The student is currently committed to the Cabinet for Health and Family Services under KRS 610.010(4) and placed in a family foster home or is placed in accordance with KRS 605.090(3);
 - (c) The student is in an independent living program and the placement is funded by the Cabinet for Health and Family Services;
 - (d) The student who is an adopted child was in the permanent legal custody of and placed for adoption by the Cabinet for Health and Family Services. A student who meets the eligibility criteria of this paragraph and lives outside of Kentucky at the time of application to a Kentucky postsecondary institution may apply for the waiver up to the amount of tuition for a Kentucky resident; or
 - (e) The Cabinet for Health and Family Services was the student's legal custodian on his or her eighteenth birthday.
- (2) Tuition and mandatory student fees for any undergraduate program of any Kentucky public postsecondary institution, including all four (4) year universities and colleges and institutions of the Kentucky Community and Technical College System, shall be waived for a Department of Juvenile Justice foster child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution and obtains a recommendation for participation from an official from the Department of Juvenile Justice, and if:
 - (a) The student has not been sentenced to the Department of Juvenile Justice under KRS Chapter 640;
 - (b) The student has been committed to the Department of Juvenile Justice for a period of at least two (2) years;
 - (c) The student is in an independent living program and placement is funded by the Department of Juvenile Justice;
 - (d) The parental rights of the student's biological parents have been terminated; or
 - (e) The student was committed to the Cabinet for Health and Family Services prior to a commitment to the Department of Juvenile Justice.
- (3) Upon request of the postsecondary institution, the Cabinet for Health and Family Services shall confirm the eligibility status under subsection (1) of this section and

the Department of Juvenile Justice shall confirm the eligibility status and recommendations under subsection (2) of this section of the student seeking to participate in the waiver program. Release of this information shall not constitute a breach of confidentiality required by KRS 199.570, 610.320, or 620.050.

- (4) The student shall complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the sum of the tuition waiver plus other student financial assistance, except loans and the work study program under 42 U.S.C. secs. 2751-2756b, from all sources exceeds the student's total cost of attendance, as defined in 20 U.S.C. sec. 10871l, the tuition waiver shall be reduced by the amount exceeding the total cost of attendance.
- (5) The student shall be eligible for the tuition waiver:
 - (a) For entrance to the institution for a period of no more than four (4) years after the date of graduation from high school; and
 - (b) For a period of five (5) years after first admittance to any Kentucky institution if satisfactory progress is achieved or maintained.
- (6) The Cabinet for Health and Family Services shall report the number of students participating in the tuition waiver program under subsection (1) of this section and the Department of Juvenile Justice shall report the number of students participating in the tuition waiver program under subsection (2) of this section on October 1 each year to the Council on Postsecondary Education and the Legislative Research Commission.
- (7) The Council on Postsecondary Education shall report nonidentifying data on graduation rates of students participating in the tuition waiver program by November 30 each year to the Legislative Research Commission.
- (8) Nothing in this section shall be construed to:
 - (a) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;
 - (b) Limit the participation of a foster or adopted student in any other program of financial assistance for postsecondary education;
 - (c) Require any postsecondary institution to waive costs or fees relating to room and board; or
 - (d) Restrict any postsecondary institution, the Department of Juvenile Justice, or the Cabinet for Health and Family Services from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 137, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 279, sec. 2, effective July 15, 2002. -- Created 2001 Ky. Acts ch. 48, sec. 1, effective June 21, 2001.

164.2849 Legislative finding.

The General Assembly of the Commonwealth of Kentucky finds and declares that it is in the best interests of the Commonwealth to encourage and support adults to adopt and provide foster care for children in the custody of the state. The General Assembly recognizes that a child whose care, custody, and control has been assumed by the Commonwealth as evidenced by termination of the rights of the biological parents and adoption from state custody or a custodial commitment to the Cabinet for Health and Family Services or the Department of Juvenile Justice is a special ward of the state and faces particular challenges in pursuing higher education. Because it is the intent of the General Assembly to support adoption, foster parenting, and educational advancement, the purpose of KRS 164.2847 is to provide postsecondary education advancement opportunity for foster and adopted children who are or were wards of the state.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 138, effective June 20, 2005. -- Created 2002 Ky. Acts ch. 279, sec. 1, effective July 15, 2002.

164.285 Provisions of KRS 64.640 and 156.010 inapplicable to institutions of higher learning.

KRS 156.010 and 64.640 and any other statute, to the extent that they provide that the University of Kentucky, Eastern Kentucky State University, Western Kentucky State University, Murray State University, and Morehead State University shall be included in the Department of Education and constitute a division thereof, are hereby repealed.

History: Created 1952 Ky. Acts ch. 28, sec. 3.

164.286 Repealed, 1962.

Catchline at repeal: Personnel of institutions of higher learning not subject to division of personnel efficiency.

History: Repealed 1962 Ky. Acts ch. 210, sec. 50. -- Created 1952 Ky. Acts ch. 28, sec. 5.

164.2865 Legislative findings and declarations relating to meningococcal meningitis disease.

The General Assembly hereby finds and declares that:

- (1) Meningococcal meningitis disease is a potentially fatal infectious and contagious bacterial disease that can be spread by coughing and sharing drinking glasses;
- (2) Since the disease often presents itself with flu-like symptoms, many victims of the disease die before it is even diagnosed. From 1991 to 1997, the cases of meningococcal meningitis disease in young adults fifteen (15) to twenty-four (24) years of age nearly doubled;
- (3) Survivors of meningococcal meningitis disease may have severe after-effects of the disease, including mental retardation, hearing loss, and loss of limbs;
- (4) College freshmen residing on campus in dormitories or residence halls have a risk of meningococcal meningitis disease over seven (7) times higher than do college students overall;
- (5) The meningococcal meningitis disease vaccine has been shown to be eighty-five percent (85%) to ninety percent (90%) effective in producing antibodies against the most common strains of the disease; and
- (6) The Centers for Disease Control and Prevention (CDC) recommends that college freshmen and their parents be educated about meningococcal meningitis disease and that vaccination should be made easily available to freshmen and undergraduate students who want to reduce their risk of disease.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 146, sec. 1, effective July 13, 2004.

164.2867 Provision of vaccination information regarding meningococcal meningitis disease to postsecondary students.

- (1) Each public or private educational institution that offers a postsecondary degree and has a residential campus shall provide vaccination information on meningococcal meningitis disease to full-time students living in resident housing.
- (2) The vaccination information shall be contained in the student housing or enrollment application or lease document and shall include a space for the student to indicate whether or not the student has received the vaccination against meningococcal meningitis disease. If institutions provide electronic enrollment or registration to first-time students, the information required by this section may be provided or collected electronically.
- (3) Vaccination information about meningococcal meningitis disease shall include detailed information on the risks of the disease and any recommendations issued by the National Centers for Disease Control and Prevention.
- (4) The vaccination information obtained under this section that is in the possession of the educational institution is confidential and shall not be a public record.
- (5) This section shall not be construed to require the educational institution or the Cabinet for Health and Family Services to provide or pay for the meningococcal meningitis disease vaccination.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 139, effective June 20, 2005. -- Created 2004 Ky. Acts ch. 146, sec. 2, effective July 13, 2004.

164.287 Motor vehicle liability insurance -- Conditions.

Each board of regents or trustees of the public postsecondary educational institutions is authorized to provide for liability and indemnity insurance against the negligence of drivers or operators of motor vehicles or other mobile equipment owned or operated by the board. If the transportation of members of the student bodies is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any student or other person, or death or injury of any student or other person.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 90, effective May 30, 1997. -- Created 1962 Ky. Acts ch. 59, sec. 1.

164.2871 Liability insurance for governing board members, faculty, and staff -- Retirement annuity allowances exemption -- Taxability after December 31, 1997 -- Purchase of insurance not waiver of immunity --Self-insured employer group health plan.

- (1) The governing board of each state postsecondary educational institution is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.
- (2) All retirement annuity allowances accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.
- (3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.
- (4) The governing board of each state postsecondary education institution is authorized to provide a self-insured employer group health plan to its employees, which plan shall conform to the requirements of subtitle 32 of KRS Chapter 304 and shall be exempt from conformity with subtitle 17A of KRS Chapter 304.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 91, effective May 30, 1997. -- Amended 1995 (2d Extra. Sess.) Ky. Acts ch. 1, sec. 7, effective April 28, 1995. -- Amended 1988 Ky. Acts ch. 282, sec. 7, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 235, sec. 1, effective July 15, 1986. -- Created 1978 Ky. Acts ch. 347, sec. 1, effective June 17, 1978.

164.288 Power of state postsecondary education institutions to accept federal aid.

Any of the state postsecondary educational institutions or the state on behalf of any of the institutions may accept federal aid in the form of services, equipment, supplies, materials, or funds by way of gift, grant, or loan for the purpose of higher education, including student loans. Any of the institutions acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials, and funds as are available. The institutions are authorized to use funds appropriated to them in carrying out the matching provisions required by federal programs, loans, or grants.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 92, effective May 30, 1997. -- Amended 1988 Ky. Acts ch. 257, sec. 1, effective July 15, 1988. -- Amended 1972 Ky. Acts ch. 203, sec. 31. -- Created 1960 Ky. Acts ch. 136, sec. 1.

164.289 Faculty member's power to vote.

Notwithstanding any other provision of KRS Chapter 164, the faculty member of any governing board of any postsecondary educational institution supported in whole or in part by state funds, whether or not described as nonvoting, shall have the right to vote on all matters except that of faculty compensation.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 93, effective May 30, 1997. -- Created 1972 Ky. Acts ch. 196, sec. 6.

164.2891 Faculty voting member of board of trustees or regents.

Any university or postsecondary educational institution under the jurisdiction of the Council on Postsecondary Education may have a faculty member as a voting member of its board of trustees or regents.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 94, effective May 30, 1997. -- Created 1978 Ky. Acts ch. 275, sec. 3, effective June 17, 1978.

164.2893 Repealed, 2002.

Catchline at repeal: Faculty of associate degree registered nurse education program.

History: Repealed 2002 Ky. Acts ch. 266, sec. 7, effective July 15, 2002. -- Created 1990 Ky. Acts ch. 482, sec. 19, effective July 13, 1990.

164.290 State universities recognized -- Names -- Status of Kentucky State University.

- (1) The state colleges formerly designated as Eastern Kentucky State College, Morehead State College, Murray State College, Western Kentucky State College, Northern Kentucky State College, and Kentucky State College may be known and recognized as Eastern Kentucky University, Morehead State University, Murray State University, Western Kentucky University, Northern Kentucky University, and Kentucky State University.
- (2) Kentucky State University located at Frankfort, Kentucky, is a land-grant state institution and, as such, all the provisions of KRS Chapter 164 shall likewise apply to Kentucky State University. It is the intent of the General Assembly that Kentucky State University shall serve as a four (4) year residential institution emphasizing a program of liberal studies appropriate to its size and resources.

Effective: July 1, 1992

History: Amended 1992 Ky. Acts ch. 10, sec. 19, effective July 1, 1992. -- Amended 1982 Ky. Acts ch. 348, sec. 1, effective July 15, 1982. -- Amended 1976 Ky. Acts ch. 8, sec. 1. -- Amended 1972 Ky. Acts ch. 39, sec. 4. -- Amended 1966 Ky. Acts ch. 6, sec. 4. -- Amended 1952 Ky. Acts ch. 41, sec. 8. -- Amended 1948 Ky. Acts ch. 11, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-37.

164.291 Student body president to receive honorarium -- Effect.

The president of the student body of any state university may receive an honorarium for his service. The receipt of such honorarium or other compensation from the university shall not constitute a conflict of interest in the event he serves on the governing board of the university.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 392, sec. 1, effective June 17, 1978.

164.293 Repealed, 1988.

Catchline at repeal: Northern Kentucky University recognized -- Laws applicable.

History: Repealed 1988 Ky. Acts ch. 257, sec. 7, effective July 15, 1988. -- Amended 1978 Ky. Acts ch. 155, sec. 104, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 8, sec. 2. -- Amended 1974 Ky. Acts ch. 25, sec. 1. -- Amended 1972 Ky. Acts ch. 203, sec. 32. -- Amended 1970 Ky. Acts ch. 18, sec. 1; and ch. 92, sec. 30. -- Created 1968 Ky. Acts ch. 37, sec. 1.

164.295 Programs of state universities.

The six (6) state universities shall provide:

- (1) Upon approval of the Council on Postsecondary Education, associate and baccalaureate programs of instruction;
- (2) Upon approval of the Council on Postsecondary Education, graduate programs of instruction at the master's-degree level in education, business, and the arts and sciences, specialist degrees, and programs beyond the master's-degree level to meet the requirements for teachers, school leaders, and other certified personnel;
- (3) Research and service programs directly related to the needs of their primary geographical areas;
- (4) And, may provide programs of a community college nature in their own community comparable to those listed for the Kentucky Community and Technical College System, as provided in KRS 164.580.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 95, effective May 30, 1997. -- Amended 1978 Ky. Acts ch. 155, sec. 109, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 8, sec. 3. -- Amended 1972 Ky. Acts ch. 39, sec. 5. -- Created 1966 Ky. Acts ch. 6, sec. 5.

164.296 Vocational and nonvocational programs at state universities -- Joint programming -- Review of programs below associate level.

Vocational and nonvocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the Council on Postsecondary Education for the issuance of associate, baccalaureate, or graduate degrees. Joint programming and articulation of vocational-technical education nondegree programs with associate degree programs shall be pursued between the Kentucky Community and Technical College System and other postsecondary institutions when feasible. No public institution of higher education shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the review of the board of regents for the Kentucky Community and Technical College System and the approval of the Council on Postsecondary Education. The board of regents for the Kentucky Community and Technical College System, with approval of the Council on Postsecondary Education, may contract with public institutions of higher education for the operation of specific programs and projects.

Effective: May 30, 1997

History: Repealed, reenacted, renumbered, and amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 50, effective May 30, 1997. -- Created 1990 Ky. Acts ch. 470, sec. 21, effective July 1, 1990.

Formerly codified as KRS 151B.115.

164.297 English language proficiency assessment for instructors.

- (1) Each state university shall institute English language proficiency assessment for all instructors, including teaching assistants, for whom English is not their primary language. The instructors shall be evaluated periodically to demonstrate their ability to deliver all lectures and oral presentations in an English speech pattern which the students understand.
- (2) Subsection (1) of this section shall not apply to the teaching of foreign language courses.
- (3) If an instructor receives an unsatisfactory evaluation, he shall have one (1) semester to demonstrate his ability. If an instructor receives a second unsatisfactory evaluation, his employment shall be terminated.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 407, sec. 1, effective July 14, 1992.

164.300 Purpose of state universities and colleges.

The purpose of the state universities and colleges is to give instruction at the college level, in residence and through extension study, in academic, vocational and professional subjects and in the science and art of teaching, including professional ethics, to conduct training schools, field service and research, and to render such supplemental services as conducting libraries and museums, dormitories, farms, recreational facilities and offering instruction in such general and cultural subjects as constitute a part of their curricula.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-38.

164.305 Renumbered as KRS 164.355, effective 1952.

164.310 Boards of regents for state regional universities and Kentucky Community and Technical College System.

There shall be a board of regents for each of the state universities, to be known as the board of regents of the State University and a board of regents for the Kentucky Community and Technical College System.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 96, effective May 30, 1997. -- Amended 1948 Ky. Acts ch. 11, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-39.

164.320 Repealed, 1992.

Catchline at repeal: Membership of boards of regents.

History: Repealed 1992 Ky. Acts ch. 10, sec. 21, effective July 1, 1992. -- Amended 1990 Ky. Acts ch. 504, sec. 3, effective July 13, 1990. -- Repealed, reenacted, and amended 1988 Ky. Acts ch. 53, sec. 2, effective July 15, 1988. -- Amended 1982 Ky. Acts ch. 41, sec. 2, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 10, sec. 3, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 295, sec. 5, effective June 17, 1978; and ch. 384, sec. 48, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 8, sec. 4. -- Amended 1972 Ky. Acts ch. 196, sec. 2; and ch. 203, sec. 33. -- Amended 1970 Ky. Acts ch. 18, sec. 2; and ch. 150, sec. 1. -- Amended 1968 Ky. Acts ch. 37, sec. 1; and ch. 99, sec. 2. -- Amended 1956 (1st Extra. Sess.) Ky. Acts ch. 7, Art. XIV, sec. 1. -- Amended 1952 Ky. Acts ch. 41, sec. 10. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4527-40, 4527-41, 4527-42.

164.330 Organization and officers of boards of regents -- Expenses.

Each board of regents shall hold its first meeting within thirty (30) days after each appointment of new members. At this meeting there shall be elected a vice chairperson and a secretary for the board. Each board shall appoint a treasurer, and such officers as it deems necessary, but no member of any of the boards shall be appointed treasurer. No member of any board shall draw any salary for his services, but shall be reimbursed for necessary expenditures made in going to and from each meeting of the board and for other legitimate expenses, except a member who resides outside the Commonwealth shall not be reimbursed for out-of-state travel. The expenses shall be paid out of the funds of the appropriate institution.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 98, effective May 30, 1997. -- Amended 1992 Ky. Acts ch. 10, sec. 11, effective July 1, 1992; ch. 27, sec. 10, effective July 1, 1992. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-42.

164.335 Members of General Assembly not to serve on governing boards of state postsecondary education institutions.

In addition to the qualifications provided in KRS 164.131 for members of the board of trustees of the University of Kentucky, in KRS 164.821 for members of the board of trustees of the University of Louisville, and in KRS 164.321 for members of the board of regents of other Kentucky universities and of the Kentucky Community and Technical College System, no person who is a member of either house of the Kentucky General Assembly shall serve as a member of the board of trustees or board of regents of any public institution.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 99, effective May 30, 1997. -- Amended 1992 Ky. Acts ch. 10, sec. 18, effective July 1, 1992. -- Created 1972 Ky. Acts ch. 5, sec. 1.

164.337 Member of General Assembly may be employee of state university or community college.

Notwithstanding the provisions of any statute to the contrary, a legislator may be an employee of any of the state universities or community colleges without resigning his membership in the General Assembly.

Effective: July 1, 1990

History: Created 1990 Ky. Acts ch. 470, sec. 78, effective July 1, 1990.

164.340 Meetings of boards -- Quorum.

The governing board shall meet quarterly at the institution or at such other place as is agreed upon. Upon written request of the president of the institution or of two (2) members of the board, the chairman of the board shall call a special meeting at a place designated by him, and the board may at such special meeting transact any or all business that it may transact at a regular meeting. A majority of the members of the board shall constitute a quorum for the transaction of business, but no appropriation of money shall be made nor any contract that requires a disbursement of money shall be authorized, and no teacher employed or dismissed, unless a majority of all the members of the board vote for it.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 100, effective May 30, 1997. -- Amended 1982 Ky. Acts ch. 391, sec. 16, effective July 15, 1982. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-43.

164.350 General powers and duties of boards of regents.

- (1) The government of each of the state universities and the Kentucky Community and Technical College System is vested in its respective board of regents. Each board of regents, when its members have been appointed and qualified, shall constitute a body corporate, with the usual corporate powers, and with all immunities, rights, privileges, and franchises usually attaching to the governing bodies of educational institutions. Each board may:
 - (a) Receive grants of money and expend the same for the use and benefit of the university or college;
 - (b) Adopt bylaws, rules, and regulations for the government of its members, officers, agents, and employees, and enforce obedience to such rules;
 - (c) Require such reports from the president, officers, faculty, and employees as it deems necessary and proper from time to time;
 - (d) Determine the number of divisions, departments, bureaus, offices, and agencies needed for the successful conduct of the affairs of the university or college; and
 - (e) Grant diplomas and confer degrees upon the recommendation of the president and faculty.
- (2) Each board of regents shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- (3) In addition to the duties required in subsections (1) and (2) of this section, the board of regents for the Kentucky Community and Technical College System, upon recommendation of the president of the system, shall:
 - (a) Develop and implement guidelines for the preparation of biennial budget requests by the administrators of the colleges within the system. The guidelines shall define the processes for review and approval by the boards of directors for the colleges;
 - (b) Adopt a biennial budget request for the Kentucky Community and Technical College System upon the recommendation of the president of the system;
 - (c) Adopt an allocation process for distributing funds to the colleges within the system;
 - (d) Consider recommendations from the boards of directors of the colleges to improve the overall budget planning and allocation processes;
 - (e) Designate each college with a name;
 - (f) Encourage and accept donations of land and funds to be used in the acquisition, construction, or operations of colleges in the system. The board may commemorate donations from private persons or corporations with suitable memorials; and
 - (g) Accept federal grants when deemed appropriate to be used in the acquisition, construction, or operations of colleges in the system.

The board of regents shall assure that the budget planning and implementation processes are consistent with the adopted strategic agenda and biennial budget and with the missions of the institutions within the system.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 56, sec. 3, effective June 24, 2003. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 101, effective May 30, 1997. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-44.

164.351 Information on preventing transmission of HIV infection to be made available to freshmen and transfer students.

- (1) State colleges and universities and the Kentucky Community and Technical College System shall provide information on how to prevent the transmission of the human immunodeficiency virus consistent with the Centers for Disease Control guidelines, to all freshmen and transfer students.
- (2) Each state technical institution, community college, or university shall inform students of the name and telephone number of a technical institution, community college, college, or university counselor trained to counsel persons about the human immunodeficiency virus.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 102, effective May 30, 1997. -- Created 1990 Ky. Acts ch. 443, sec. 38, effective July 13, 1990.

164.352 Military recruiters' access to university campuses and student directory information.

If a board of trustees or regents of a public institution of postsecondary education provides access to its campus or its student directory information to persons or groups which make students aware of occupational or educational options, the boards shall provide access on the same basis to official recruiting representatives of the military forces of the state and the United States for the purpose of informing students of educational and career opportunities available in the military.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 103, effective May 30, 1997. -- Created 1982 Ky. Acts ch. 84, sec. 1, effective July 15, 1982.

164.360 Appointment and removal of president, faculty, and employees.

- (1) (a) Each board of regents for the universities may appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.
- (b) The board of regents for the Kentucky Community and Technical College System shall appoint a president, and on the recommendation of the president may, in its discretion, appoint all faculty members and employees and fix their compensation and tenure of service, subject to the provisions of subsection (2) of this section.
- (2) No person shall be employed for a longer period than four (4) years. No person shall be employed at an institution where his relative serves on the board of regents for that institution.
- (3) Each board may remove the president of the university or Kentucky Community and Technical College System, and upon the recommendation of the president may remove any faculty member or employees, but no president or faculty member shall be removed except for incompetency, neglect of or refusal to perform his duty, or for immoral conduct. A president or faculty member shall not be removed until after ten (10) days' notice in writing, stating the nature of the charges preferred, and after an opportunity has been given him to make defense before the board by counsel or otherwise and to introduce testimony which shall be heard and determined by the board. Charges against a president shall be preferred by the chairperson of the board upon written information furnished to him, and charges against a faculty member shall be preferred in writing by the president unless the offense is committed in his presence.

Effective: July 1, 2006

History: Amended 2005 Ky. Acts ch. 173, Pt. I, K.1.(11), sec. 1, effective March 20, 2005, until July 1, 2006. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 104, effective May 30, 1997. -- Amended 1992 Ky. Acts ch. 10, sec. 14, effective July 1, 1992. -- Amended 1974 Ky. Acts ch. 386, sec. 32. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4527-44, 4527-46.

Legislative Research Commission Note (7/1/2006). Because of the Governor's partial veto #9 of 2005 HB 267, the amendment to KRS 164.360 which was made by 2005 Ky. Acts ch. 173, Pt. I, K.1.(11), sec. 1, was only effective until July 1, 2006. The version that was last amended by 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 104, and that became effective on May 30, 1997, has been reinstated.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(8), at 1203; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2912 (Final Budget Memorandum, at 1227).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(11), at 1203; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2917 (Final Budget Memorandum, at 1230).

164.365 Governing boards to have exclusive control of employment, tenure, and official relations of employees -- Payroll deduction of employee membership organization dues for KCTCS employees.

- (1) Anything in any statute of the Commonwealth to the contrary notwithstanding, the power over and control of appointments, qualifications, salaries, and compensation payable out of the State Treasury or otherwise, promotions, and official relations of all employees of Eastern Kentucky University, Western Kentucky University, Murray State University, Northern Kentucky University, and Morehead State University, as provided in KRS 164.350 and 164.360, and of Kentucky State University and the Kentucky Community and Technical College System, shall be under the exclusive jurisdiction of the respective governing boards of each of the institutions named.
- (2) The board of regents for the Kentucky Community and Technical College System shall develop personnel rules for the governing of its members, officers, agents, and employees by June 30, 1998. The board shall adopt interim policies to govern employees hired from July 1, 1997, until the permanent rules are adopted.
- (3) Upon receipt of a written authorization from an employee of the Kentucky Community and Technical College System, the board shall deduct dues from the employee's paycheck for employee membership organizations. Dues shall be deducted at a rate established by the organization, and shall be discontinued upon written notification by an employee to both the system and the employee organization. On a quarterly basis, the Kentucky Community and Technical College System shall provide to each employee membership organization an updated list that includes the names and home addresses of the employees who are having dues deducted from their paychecks for the purpose of maintaining membership in that organization.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 105, effective May 30, 1997. -- Amended 1990 Ky. Acts ch. 60, sec. 1, effective July 13, 1990. -- Created 1952 Ky. Acts ch. 28, sec. 2.

164.367 Governing board may permit its employees to have an interest in a contract between the institution and a business -- Regulations to be forwarded to the Legislative Research Commission.

- (1) For the purposes of this section, "business" has the same meaning as defined in KRS 11A.010.
- (2) The governing board of each public postsecondary education institution may adopt regulations establishing the conditions under which and the procedures whereby the board may approve a specific instance of an employee having an interest in a contract between the institution and a business.
- (3) Each governing board shall forward, as soon as is practicable, a copy of the regulations it adopts under provisions of this section to the Legislative Research Commission. A board shall also forward any subsequent changes to the regulations to the Commission.

Effective: June 26, 2007

History: Created 2007 Ky. Acts ch. 113, sec. 1, effective June 26, 2007.

164.370 Suspension or expulsion of students.

Each board of regents may invest the faculty or a committee of the faculty and students with the power to suspend or expel any student for disobedience to its rules, or for any other contumacy, insubordination or immoral conduct. In every case of suspension or expulsion of a student the person suspended or expelled may appeal to the board of regents. The board of regents shall prescribe the manner and the mode of procedure on appeal. The decision of the board of regents shall be final.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 51, sec. 1, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4527-44, 4527-47.

164.375 Policy statements of boards of trustees concerning "hazing" activities of campus organizations.

- (1) The boards of trustees of the University of Kentucky and the University of Louisville and the boards of regents of those state colleges set out in KRS 164.290 shall, within ninety (90) days of July 15, 1986, adopt statements of campus policy which prohibit any action or situation which recklessly or intentionally endangers mental or physical health or involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization. Such policy statements shall govern the conduct of students, faculty and other staff as well as visitors and other licensees and invitees on such campuses and property. The penalties for violations of such policy statements shall be clearly set forth therein and shall include provisions for the ejection of a violator from such campus and property, in the case of a student or faculty violator his suspension, expulsion or other appropriate disciplinary action and, in the case of an organization which authorizes such conduct, rescission of permission for that organization to operate on campus property. Such penalties shall be in addition to any penalty pursuant to the penal law or any other chapter to which a violator or organization may be subject. A copy of such policy statements which prohibit reckless or intentional endangerment to health or forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization shall be given to all students enrolled in said college and shall be deemed to be part of the bylaws of all organizations operating on said campus.
- (2) Nothing contained in this section is intended nor shall it be construed to limit or restrict the freedom of speech nor peaceful assembly.

Effective: July 15, 1986

History: Created 1986 Ky. Acts ch. 366, sec. 1, effective July 15, 1986.

164.376 Housing and security policy for safe residence facilities for students with a disability.

- (1) As used in this section, unless the context requires otherwise, "disability" has the same meaning as the definition given in KRS 344.010.
- (2) The Council on Postsecondary Education shall develop guidelines for the adoption of policies by postsecondary education institutions with residence facilities that provide students with a disability a safe environment in which to live and study.
- (3) Each institution shall develop a housing and security policy in compliance with the council's guidelines that shall be visibly posted in each residence facility, made available on campus computer networks to which students have access, and included in all student housing information. The policies shall include, but not be limited to, an appeals process that may be used by students, their parents, or their advocates when they have reason to believe that the institution's policy or the student's housing assignment does not reasonably accommodate the student's disability or endangers the student's safety or health. The appeals process shall mandate that the body assigned to hear the appeal shall not include representatives of the original department that made the housing assignment that is being appealed.
- (4) Each institution shall prepare at the beginning of each semester a list with the name and residency assignment of each student with a disability, as reported to the institution by the student or the student's parent or advocate, as appropriate. The list shall be given to the campus housing and security authorities to be used in an emergency to identify, locate, and act to help, protect, and if necessary, rescue the student with a disability.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 191, sec. 1, effective July 14, 2000.

164.377 Duplication of keys prohibited.

No person shall knowingly make or cause to be made any key, for which notice of the prohibition against duplication thereof has been given either by impressing into the key the legend "Unlawful to duplicate this key" or by placing the notice "It is unlawful to duplicate this key without the permission of the university." Upon the receipt for the key which is to be signed by the recipient of the key, for any building, laboratory, facility, room, or other lock of any college or university which is supported wholly, or in part, by the Commonwealth of Kentucky, contrary to any administrative regulation respecting duplication of keys by the board of trustees of such college or university.

Effective: July 15, 1988

History: Created 1988 Ky. Acts ch. 148, sec. 1, effective July 15, 1988.

164.380 Practice schools.

The board of regents of each of the state universities or colleges may maintain, in connection with the college, a model and practice school under the supervision of thoroughly trained teachers for the purpose of giving observation and practice work to the student teachers.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-50.

164.385 Continuing education program for midlevel health care practitioners.

The University of Kentucky, the University of Louisville, and the Board of Family Health Care Providers shall develop a program to meet the requirement that midlevel health care practitioners successfully complete ten (10) hours of continuing education annually.

Effective: July 13, 1990

History: Created 1990 Ky. Acts ch. 482, sec. 10, effective July 13, 1990.

164.390 Interest in contracts prohibited.

Unless specifically approved by the governing board of an institution under the provisions of KRS 164.367, no president, professor, teacher, member of the executive council, or other officer or employee shall be interested in any contract or purchase for the building or repairing of any structure or furnishing of any supplies for the use of a university or college.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 113, sec. 3, effective June 26, 2007. -- Amended 1978 Ky. Acts ch. 392, sec. 3, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-48.

164.400 Incidental expenses -- Fees.

The respective boards of regents of the state universities and colleges and the Kentucky Community and Technical College System shall establish such incidental fees and nonresident tuition fees as will be sufficient for the purpose of paying the incidental expenses of the university or college and as are consistent with the recommendations of the Council on Postsecondary Education. No money derived from nonresident tuition or other fees paid by students shall be used for any other purpose, except such amount as is over and above that needed to defray the incidental expenses.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 106, effective May 30, 1997. -- Amended 1978 Ky. Acts ch. 155, sec. 104, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-49.

164.410 Acquisition and sale of property -- Disposition of surplus property.

- (1) The governing board of a postsecondary education institution may purchase or lease land under KRS 164A.575 for the purpose of securing the erection of buildings and may receive by any legal mode of conveyance, purchase, and hold property under KRS 164A.575 of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a governing board is unable to agree with the owner of the real estate as to its value, or to its purchase, it may proceed in its own name to condemn the real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.
- (2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey under KRS 164A.575 those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.
- (3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 107, effective May 30, 1997. -- Amended 1988 Ky. Acts ch. 257, sec. 2, effective July 15, 1988. -- Amended 1982 Ky. Acts ch. 391, sec. 7, effective July 15, 1982. -- Amended 1976 Ky. Acts ch. 140, sec. 69. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4527-44, 4527-51.

164.420 Duties of treasurer.

The treasurer of each governing board shall receive and disburse all money under the control of the board, perform all acts that pertain to his office under the direction of the board, and make timely reports to the board on a schedule established by the board.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 257, sec. 3, effective July 15, 1988. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-56.

164.440 Depository -- Bond and duties of.

Each board of regents shall appoint a bank or trust company to serve as its depository. The depository shall, before entering upon its duties, execute a bond for the faithful performance of the duties of the office, to be approved by the board. The bond shall be guaranteed by at least five (5) solvent personal sureties whose solvency exceeds the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of this state and the bonding laws applying to the safeguarding of state funds. The depository shall be designated for a period of one (1) year or a part thereof, and before entering upon its duties shall agree with the board of regents as to the amount of interest to be paid on average daily or average monthly balances. The interest shall not be less than two percent (2%) if the board pays the premium on the depository bond. The penal sum of the depository bond shall be determined by the board of regents and shall as nearly as possible cover the maximum amount of money that the board might have on hand in the depository at any one (1) time. The depository shall hold for the board, subject to its withdrawal at any time, all funds deposited by the treasurer or any agent of the board, and shall pay over to such person and in such manner as the board directs all funds so deposited. The depository shall keep full and complete accounts of all the board's funds, make such reports to the board or its authorized agents as the board directs, and keep and turn over to the successor of its office all records relating to its transactions and duties together with all public funds on hand.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-55.

164.450 Secretary -- Duties and compensation.

The secretary of each board of regents shall keep and prepare all records, books and papers belonging to the board. He shall keep a journal of the proceedings of the board in which, if requested by any member of the board, the "yeas" and "nays" on all questions shall be entered. He shall prepare, under the direction of the board, all reports and estimates, and shall execute all matters belonging to his office. His compensation shall be fixed by the board.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-52.

164.460 Reports of presidents.

The president of each postsecondary education institution shall make to his governing board written reports which shall contain a full account of receipts of money from all sources, amount, and purpose of disbursements thereof, and the condition of the university or college. The reports shall be made according to a schedule established by the board.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 108, effective May 30, 1997. -- Amended 1988 Ky. Acts ch. 257, sec. 4, effective July 15, 1988. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-53.

164.465 Duty of presidents of postsecondary education institutions to distribute information to university's governing board members.

- (1) The presidents of state postsecondary education institutions identified in KRS 161.220(4)(b) or 164.001(12) or (16) shall distribute the written information provided by the Office of the Attorney General and the Department for Libraries and Archives under KRS 15.257 and 171.223 to each board of regents or governing board member of their university. Distribution shall be accomplished within sixty (60) days of receiving the written information from the Office of the Attorney General and the Department for Libraries and Archives. Distribution to newly appointed members shall be accomplished within sixty (60) days of their appointment. The distribution may be by electronic means.
- (2) The presidents of state public postsecondary education institutions, as identified in subsection (1) of this section, shall require signatory proof that each board of regents or governing board member has received the written information as required under subsection (1) of this section, shall maintain documentation of receipt on file, and shall certify to the Office of the Attorney General that the written information has been distributed as required.

Effective: June 20, 2005

History: Created 2005 Ky. Acts ch. 45, sec. 5, effective June 20, 2005.

164.470 Funds to be used as specified.

All appropriations, grants, gifts, bequests and donations to a university or college for a specified use shall be applied to such use and no other.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-57.

164.475 Allocation of enrollment positions by state schools of medicine and dentistry -- Competitive selection of entering class medical, dental, or law students.

- (1) The boards of trustees of the state colleges and universities offering degree programs in medicine or dentistry shall allocate seventy percent (70%) of the enrollment positions for the entering class each year, equally among each of the Kentucky Supreme Court districts, using the population of each Supreme Court district as determined by the last decennial federal census to determine that district's proportion of the positions, and shall assign these apportioned enrollment positions for each district to those applicants who are legal residents in that Supreme Court district.
- (2) Fifteen percent (15%) of the remaining positions shall be allocated to the state at-large and assigned to applicants who are legal residents at any place within the State of Kentucky.
- (3) Any qualified legal resident shall have a preference in securing an assignment to a position when compared to a nonresident.
- (4) The total number of nonresidents assigned positions shall not exceed fifteen percent (15%) of the total entering class enrollment positions assigned for any school year.
- (5) The selection of entering class medical, dental, or law students shall be accomplished competitively with due consideration being given scholastic standings, recommendations of the pre-professional advisory committees of the various schools where the applicants pursue the pre-professional academic program, and their performance on any required admission test, and any other procedures that deal fairly with the applicant group as a whole.

Effective: July 14, 1992

History: Amended 1992 Ky. Acts ch. 235, sec. 4, effective July 14, 1992. -- Created 1978 Ky. Acts ch. 275, sec. 4, effective June 17, 1978.

164.477 Kentucky Postsecondary Textbook Accessibility Act.

- (1) As used in this section, unless the context requires otherwise:
 - (a) "Alternative format" means any medium or format for the presentation of instructional materials other than standard print needed by a student with a disability for a reading accommodation, including but not limited to braille, large print texts, audio recordings, digital texts, and digital talking books;
 - (b) "Instructional material" means a textbook or other material published primarily for use by students in a course of study in which a student with a disability is enrolled that is required or essential to a student's success, as determined by the course instructor. "Instructional material" includes nontextual mathematics and science material to the extent that software is commercially available to permit the conversion of the electronic file of the material into a format that is compatible with assistive technologies such as speech synthesis software or braille translation software commonly used by students with disabilities;
 - (c) "Nonprinted instructional material" means instructional material in a format other than print, including instructional material that requires the availability of electronic equipment in order to be used as a learning resource, including but not limited to software programs, videodiscs, videotapes, and audio tapes;
 - (d) "Printed instructional material" means instructional material in book or other printed form;
 - (e) "Publisher" means an individual, firm, partnership, corporation, or other entity that publishes or manufactures instructional material used by students attending a public or independent postsecondary education institution in Kentucky;
 - (f) "State Repository for Alternative Format Instructional Materials" or "repository" means a consortium established or otherwise designated by the Council on Postsecondary Education under subsection (8) of this section to serve as a state repository for electronic files or alternative format instructional materials obtained from publishers, created by institutions, or received through other means;
 - (g) "Structural integrity" means the inclusion of all of the information provided in printed instructional material, including but not limited to the text of the material sidebars, the table of contents, chapter headings and subheadings, footnotes, indexes, and glossaries, but need not include nontextual elements such as pictures, illustrations, graphs, or charts; and
 - (h) "Working day" means a day that is not Saturday, Sunday, or a national holiday.
- (2) The purpose of this section is to ensure, to the maximum extent possible, that all postsecondary students with a disability in Kentucky requiring reading accommodations, in accordance with Section 504 of the Rehabilitation Act, 29 U.S.C. sec. 794, or the Americans with Disabilities Act, 42 U.S.C. secs. 12101 et seq., including but not limited to students who are blind, are visually impaired, or

have a specific learning disability or other disability affecting reading, shall have access to instructional materials in alternative formats that are appropriate to their disability and educational needs.

- (3) A publisher shall, upon fulfillment of the requirements of subsections (6) and (7) of this section, provide to a postsecondary education institution or to the State Repository for Alternative Format Instructional Materials, at no cost:
 - (a) Printed instructional material in an electronic format; and
 - (b) Nonprinted instructional material in an electronic format, when the technology is available to maintain the material's structural integrity.
- (4) Instructional material provided by a publisher in electronic format shall:
 - (a) Maintain the structural integrity of the original instructional material, except as provided for in paragraph (b) subsection (3) of this section;
 - (b) Be compatible with commonly used braille translation and speech synthesis software;
 - (c) Include corrections and revisions as may be necessary; and
 - (d) Be in a format that is mutually agreed upon by the publisher and the requesting institution or the State Repository for Alternative Format Instructional Materials. If good-faith efforts fail to produce an agreement as to an electronic format that will preserve the structural integrity of the instructional material, the publisher shall provide the instructional material in XML (Extensible Markup Language), utilizing an appropriate document-type definition suitable for the creation of alternative format materials, and shall preserve as much of the structural integrity of the original instructional material as possible.
- (5) The publisher shall transmit or otherwise send an electronic format version of requested instructional material within fifteen (15) working days of receipt of an appropriately completed request. Should this timetable present an undue burden for a publisher, the publisher shall submit within the fifteen (15) working day period a statement to the requesting entity certifying the expected date for transmission or delivery of the file.
- (6)
 - (a) To receive an electronic format version of instructional material, a written request shall be submitted to the publisher that certifies:
 1. The instructional material has been purchased for use by a student with a disability by the student or the institution the student attends or is registered to attend;
 2. The student has a disability that prevents the student from using the standard instructional material; and
 3. The instructional material is for use by the student in connection with a course in which he or she is registered or enrolled.
 - (b) A publisher may also require a statement signed by the student or, if the student is a minor, the student's parent or legal guardian, agreeing that the student will:

1. Use the electronic copy of the instructional material solely for his or her own educational purposes; and
 2. Not copy or distribute the instructional material for use by others.
- (7) The request for an electronic format version of instructional material shall be prepared and signed by:
- (a) The coordinator of services for students with a disability at the institution;
 - (b) A representative of the Office for the Blind;
 - (c) A representative of the Office of Vocational Rehabilitation; or
 - (d) A representative of the State Repository for Alternative Format Instructional Materials.
- (8) The Council on Postsecondary Education may, to the extent funds are available, establish or otherwise designate a consortium to be called the State Repository for Alternative Format Instructional Materials to serve as a state repository for electronic files and alternative format materials for the purpose of facilitating the timely access of appropriate alternative instructional materials by postsecondary students with a disability.
- (9) The Council on Postsecondary Education may promulgate administrative regulations governing the implementation and administration of this section.
- (10) The council shall work with representatives of each postsecondary institution to develop policies and procedures designed to ensure to the maximum extent possible that students with disabilities have access to instructional materials in appropriate alternative formats within the first week of class.
- (11) The council, in consultation with appropriate entities, including but not limited to the Office for the Blind, the Kentucky Assistive Technology Service Network, Recording for the Blind and Dyslexic, and the Kentucky Association on Higher Education and Disability, shall include within its annual status report on postsecondary education in Kentucky a continuing assessment of the need for statewide technical assistance, training, and other supports designed to increase the availability and effective use of alternative format instructional materials.
- (12) The State Repository for Alternative Format Instructional Materials or the council may receive electronic files and alternative format materials from:
- (a) Publishers;
 - (b) Postsecondary education institutions that have created alternative materials for use by a student with a disability;
 - (c) The Kentucky Department of Education, receiving electronic files from publishers under the requirements of KRS 156.027; or
 - (d) Other sources.
- (13) The repository or the council shall, upon receipt of documents as set forth in subsection (6) of this section, provide at no cost copies of electronic files and alternative format materials to:
- (a) Postsecondary education institutions in Kentucky; and

- (b) The Kentucky Department of Education, to assist in the implementation of the requirements of KRS 156.027.
- (14) The repository shall provide to a publisher, upon request:
 - (a) A summary of all electronic or alternative format versions of instructional material from that publisher provided to students, postsecondary education institutions, and the Kentucky Department of Education from its holdings; and
 - (b) Copies of requests and related certification documents received for instructional materials from that publisher.
- (15) The repository or the council may submit requests for electronic files to publishers on behalf of institutions.
- (16) (a) A postsecondary education institution or an educational instructor, assistant, or tutor may assist a student with a disability by using the electronic format version of instructional material as provided by this section solely to transcribe or arrange for the conversion of the instructional material into an alternative format, or to otherwise assist the student.
- (b) If an alternative format version of instructional material is created, an institution may, for the purpose of providing the version to other students with disabilities, share that version with:
 - 1. The repository;
 - 2. A Kentucky postsecondary education institution serving a student with a disability; and
 - 3. An authorized entity as defined under 17 U.S.C. sec. 121 that commonly provides alternative format materials for use by students in Kentucky institutions.
- (17) The disk or file of an electronic format version of instructional material used directly by a student shall be copy-protected, or reasonable precautions shall be taken by the institution to ensure that the student does not copy or distribute the electronic format version in violation of the Copyright Revisions Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.
- (18) Nothing in this section shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright under the Copyright Revision Act of 1976, as amended, 17 U.S.C. secs. 101 et seq.
- (19) Nothing in this section shall absolve covered entities from the obligation to provide equivalent access to information technology and software as set forth in KRS 61.982.
- (20) A publisher shall be considered a place of public accommodation for the purposes of KRS 344.130. Failure to comply with the requirements of this section shall be an unlawful practice of discrimination on the basis of disability for the purposes of KRS 344.120.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 211, sec. 105, effective July 12, 2006. -- Created 2003 Ky. Acts ch. 49, sec. 1, effective June 24, 2003.

164.478 Support services for deaf and hard of hearing students -- Funding.

- (1) It is the intent of the General Assembly to increase the educational level of deaf and hard of hearing persons by assuring them an equal opportunity to obtain an education in the public postsecondary institutions.
- (2) The public postsecondary institutions shall make their programs accessible to deaf and hard of hearing students by providing support services necessary for such students to fully participate in the programs. The support services shall include but not be limited to interpreters and notetakers in the classroom and equal access to all support services available to those who are not deaf or hard of hearing. Appropriate assistive listening devices and alerting devices shall be available in dormitories housing deaf or hard of hearing students.
- (3)
 - (a) The General Assembly shall appropriate funds to the Office of Vocational Rehabilitation excluding costs of capital equipment or modifications for installation of assistive listening or alerting devices to cover the costs of support services at the institutions for students who are deaf or hard of hearing.
 - (b) The Office of Vocational Rehabilitation shall administer funding of support services at institutions for students who are deaf or hard of hearing contingent on General Assembly funding. The postsecondary institutions and the Office of Vocational Rehabilitation shall cooperate to assure that funds are used to effectively provide support services to students who are deaf and hard of hearing.
 - (c) The funds shall be distributed to institutions based upon actual costs or established fees for service of providing support services to individual students.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 211, sec. 106, effective July 12, 2006. -- Amended 1998 Ky. Acts ch. 448, sec. 1, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 292, sec. 1, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 144, sec. 9, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 470, sec. 65, effective July 1, 1990. -- Created 1986 Ky. Acts ch. 75, sec. 1, effective July 15, 1986.

164.4781 Interpreter training program.

There shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of deaf and hard of hearing students attending the institutions of higher education. The Council on Postsecondary Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for deaf and hard of hearing students to develop and offer the training program. The program shall lead to a minimum of an associate degree in interpreting. The university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 109, effective May 30, 1997. -- Amended 1992 Ky. Acts ch. 144, sec. 10, effective July 14, 1992. -- Created 1986 Ky. Acts ch. 75, sec. 2, effective July 15, 1986.

164.4785 American sign language to qualify for foreign language credit.

If a course in American sign language is offered by a state university or community college, it shall be accepted as foreign language credit. Successful completion of any American sign language course in the common schools shall satisfy the foreign language entrance requirements for a state institution of higher education. Nothing in this section shall be construed to infringe upon the ability of a state university or community college to establish degree requirements including foreign language requirements.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 444, sec. 2, effective July 14, 1992.

164.479 Definition of “resident” -- Administrative regulations on eligibility to participate in tuition waiver programs.

- (1) As used in this section and KRS 164.480 to 164.515, unless the context requires otherwise, "resident" means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to such administrative regulations as the Kentucky Department of Veterans' Affairs may promulgate.
- (2) The Kentucky Department of Veterans' Affairs, pursuant to KRS Chapter 13A, shall promulgate administrative regulations concerning the eligibility of applicants to participate in the tuition waiver programs established in this section and KRS 164.480 to 164.515.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 41, sec. 1, effective July 15, 2002.

164.480 War veterans' scholarships granted.

Every person who was engaged in any branch of the military or naval service of the United States, prescribed and classified by the United States War Department as a part of such service, during the wars that were declared on April 6, 1917, and any wars declared thereafter, respectively, and who at the time of his enlistment was a resident of Kentucky, is entitled to a free scholarship in any state higher educational institution that he chooses for a period required for the completion of the course of study selected by him. The scholarship includes free tuition, matriculations and other fees, room rent, fuel and lights, and the advantages and privileges of the institution, but does not include free board. Provided, however, that if the federal government provides for the education of veterans of any of the wars herein referred to, then this section shall not apply to such veterans.

History: Amended 1952 Ky. Acts ch. 41, sec. 11. -- Amended 1944 Ky. Acts ch. 38, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4527-31, 4527-32.

164.500 Application for scholarship.

Each applicant for the scholarship provided by KRS 164.480 shall file his application for admission at least thirty (30) days prior to the beginning of the semester of the school year at which he desires to enter. The application shall be accompanied by his certificate of honorable discharge from the service, which shall be returned to him upon admittance.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4527-34.

164.505 Exemption from matriculation or tuition fee of dependents, widow, or widower of members of the Armed Forces or of members of the National Guard killed while in service or having died as a result of service-connected disability.

- (1) A person shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institution if the person's deceased parent or stepparent, or if the person's deceased spouse if the person has not remarried, was a resident of the Commonwealth of Kentucky upon joining the Kentucky National Guard or upon entering military service and:
 - (a) Was killed while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard, or while on active duty in the Armed Forces of the United States, during a national emergency, or wars declared by Congress, or actions of the United Nations, or was killed by hostile fire while on active duty in the Armed Forces of the United States or the Kentucky National Guard; or
 - (b) Died as a result of a service-connected disability acquired while serving in state active duty, active duty for training, or inactive duty training with the Kentucky National Guard or Reserve Component, or while on active duty in the Armed Forces of the United States, during a national emergency, or wars declared by Congress, or actions of the United Nations.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs or the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 377, sec. 1, effective July 14, 2000. -- Amended 1978 Ky. Acts ch. 295, sec. 6, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 112, sec. 1; and ch. 207, sec. 1. -- Amended 1972 Ky. Acts ch. 206, sec. 1. -- Created 1956 Ky. Acts ch. 202, sec. 1.

164.507 Exemption from matriculation or tuition fee for deceased veteran's spouse or child under age 26.

- (1) The nonremarried spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26), of a deceased veteran shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institute for a period not in excess of forty-five (45) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion, if the deceased parent or spouse:
 - (a)
 1. Served in the Armed Forces of the United States during a national emergency, wars declared by Congress, or actions of the United Nations; or
 2. Died while on active duty in the Armed Forces of the United States regardless of wartime service; or
 3. Died as a result of a service-connected disability acquired while on active duty with the Armed Forces of the United States regardless of wartime service; and
 - (b)
 1. Was a resident of the Commonwealth of Kentucky at the time of death; or
 2. Was married to a resident of Kentucky at the time of death; and
 3. If discharged, was under honorable conditions.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs, the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 89, sec. 1, effective June 26, 2007. -- Amended 2004 Ky. Acts ch. 155, sec. 1, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 41, sec. 2, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 377, sec. 2, effective July 14, 2000.

164.512 Tuition waiver for disabled child of veteran.

- (1) The child of a veteran, regardless of age, who has acquired a disability as a direct result of the veteran's service shall be eligible to receive a waiver of tuition upon admission to any state-supported university, college, or vocational training institute.
- (2) To be entitled to benefits under this section, the child claiming benefits must have acquired a disability determined by the United States Veterans Administration as compensable.
- (3) The parent-child relationship must be shown by birth certificate, marriage certificate, or other documentary evidence.
- (4) To entitle a child to benefit under this section the member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or the veteran must have served on active duty with the Armed Forces of the United States, and the discharge must have been under honorable conditions. The veteran must be a resident or, if deceased, must have been a resident of the Commonwealth of Kentucky.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 42, sec. 1, effective July 15, 2002.

164.515 Exemption from tuition for spouse or child under age 26 of permanently disabled member of the National Guard, war veteran, prisoner of war, or member of the Armed Services missing in action -- Conditions.

- (1) The spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26), of a permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty for training, or inactive duty training, or a permanently and totally disabled war veteran, or a one hundred percent (100%) service-connected disabled veteran regardless of wartime service, or prisoner of war or member of the Armed Services declared missing in action shall not be required to pay any matriculation or tuition fees upon his admission to any state-supported institution of higher education or to any state-supported vocational training school for a period not in excess of forty-five (45) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (2) To be entitled to benefits under this section the parent or stepparent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans Administration or the Department of Defense. If the veteran is deceased, the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's, stepparent's, or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans Administration Records, or the Department of Defense of the United States.
- (3) The parent-child relationship must be shown by birth certificate, legal adoption papers, marriage certificate, or other documentary evidence. A stepchild must be a member of the veteran's household. The spousal relationship must be shown by a marriage certificate or other documentary evidence.
- (4) To entitle a spouse, child, stepchild, or orphan to benefit under this section the disabled member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or active duty with the Armed Forces of the United States, and his discharge must have been under honorable conditions. He must be a resident or, if deceased, have been a resident of the Commonwealth of Kentucky.
- (5) No provision of this section shall serve to deny these benefits to an eligible spouse, child, stepchild, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged under honorable conditions; the period of time spent in the military service to be compensated by like time, beyond the age of twenty-six (26) years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.
- (6) The marriage of an eligible child, stepchild, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 89, sec. 2, effective June 26, 2007. -- Amended 2004 Ky. Acts ch. 155, sec. 2, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 42, sec. 2, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 377, sec. 3, effective July 14, 2000. -- Amended 1994 Ky. Acts ch. 181, sec. 101, effective April 4, 1994. -- Amended 1986 Ky. Acts ch. 331, sec. 29, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 295, sec. 7, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 112, sec. 2; and ch. 207, sec. 2. -- Amended 1972 Ky. Acts ch. 14, sec. 1. -- Amended 1966 Ky. Acts ch. 200, sec. 1. -- Created 1960 Ky. Acts ch. 92, secs. 1 to 5.

164.516 Definitions for KRS 164.516 to 164.5169.

As used in KRS 164.516 to 164.5169, unless the context requires otherwise:

- (1) "Educational institution" means any state-supported university, community college, or vocational school.
- (2) "Kentucky National Guard" means the federally-recognized units of the Kentucky National Guard.
- (3) "Member" means an active member of a federally-recognized unit of the Kentucky National Guard meeting the minimum requirements for satisfactory membership as defined by the regulations of the Department of the United States Army and the Department of the United States Air Force.
- (4) "Tuition" means the total semester, quarter, or classroom hour cost of instruction and matriculation and other fees required of the student that are published in the catalog of the educational institution.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 220, sec. 1, effective July 15, 1996.

164.5161 Kentucky National Guard Tuition Award Program -- Administrative regulations.

- (1) "Educational institution" means an in-state public or private postsecondary educational institution.
- (2) The General Assembly of the Commonwealth of Kentucky establishes the National Guard Tuition Award Program to provide members of the Kentucky National Guard the opportunity to attend an in-state educational institution. The tuition paid shall be up to or equal to the in-state full or part-time tuition rate of the institution the member attends except that tuition paid in support of a member attending a private postsecondary educational institution shall be up to or equal to the average in-state full or part-time tuition rate of a public university or community college. Until the appropriation for the tuition assistance program of the Department of Military Affairs is first fully funded by the General Assembly, tuition for a member to attend a private institution shall not be paid. The tuition award program shall be established in the Kentucky Higher Education Assistance Authority.
- (3) The Kentucky Higher Education Assistance Authority pursuant to KRS Chapter 13A, shall promulgate administrative regulations necessary to the financial management of the tuition award program.
- (4) The Department of Military Affairs, pursuant to KRS Chapter 13A, shall promulgate administrative regulations concerning the eligibility of members to participate in the tuition award program established in this section.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 548, sec. 1, effective July 14, 2000. -- Created 1996 Ky. Acts ch. 220, sec. 2, effective July 15, 1996.

164.5165 Nonresident qualifications.

Any active member of the Kentucky National Guard who is not a Kentucky resident shall qualify for the tuition award benefits provided by KRS 164.516 to 164.5169 subject to the following conditions:

- (1) The member enrolls in an educational institution within this state; and
- (2) The tuition award benefits provided to the out-of-state member shall not exceed an amount equivalent to the in-state tuition amount the member would have received if the member were a Kentucky resident.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 220, sec. 3, effective July 15, 1996.

164.5169 Payment of tuition to educational institution.

Upon certification by the Department of Military Affairs that the member is eligible, the Kentucky Higher Education Assistance Authority shall, to the extent that funds have been appropriated and are available to the National Guard Tuition Award Program, pay to the educational institution an amount up to or equal to the in-state tuition costs of full-time or part-time study.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 197, sec. 1, effective July 14, 2000. -- Created 1996 Ky. Acts ch. 220, sec. 4, effective July 15, 1996.

164.518 Scholarships and awards for persons who are employed or provide training in child-care and early childhood settings.

- (1) It is the intent of the General Assembly to create a seamless system to upgrade the professional development of persons who are employed or provide training in a child-care or early childhood setting through scholarships, merit awards, and monetary incentives, to assist these persons in obtaining a child development associate credential, post-secondary certificate, diploma, degree, or specialty credential in an area of study determined by the authority as recommended by the professional development council.
- (2) Eligibility for scholarship funds shall be for individuals who do not have access to professional development funds from other education programs that receive state or federal funds, and who are:
 - (a) Employed at least twenty (20) hours per week providing services in a child-care or early childhood setting; or
 - (b) Involved in providing professional development training for teachers in an early childhood setting.
- (3) The Kentucky Higher Education Assistance Authority, after consultation with the Early Childhood Development Authority and the Cabinet for Health and Family Services, shall promulgate administrative regulations, including a system of monetary incentives for scholarship program participants for completing classes, in accordance with KRS Chapter 13A as necessary to implement this section.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 99, sec. 140, effective June 20, 2005. -- Created 2000 Ky. Acts ch. 308, sec. 13, effective July 14, 2000.

164.520 Irredeemable bond for benefit of University of Kentucky and Kentucky State University.

The bond issued by the commissioners of the sinking fund to themselves as trustees for the University of Kentucky and Kentucky State University, bearing date July 1, 1897, for the sum of \$165,000 and bearing interest at the rate of six percent (6%), payable semiannually, remains in force and constitutes a perpetual obligation of the Commonwealth, and the interest thereon is a perpetual charge upon the Treasury. The Finance and Administration Cabinet shall, on the first day of January and on the first day of July each year, draw its warrant on the State Treasurer for the sum of \$627.75 in favor of the treasurer of Kentucky State University, and its warrant on the State Treasurer for the sum of \$4,322.25 in favor of the treasurer of the University of Kentucky.

Effective: July 13, 1984

History: Amended 1984 Ky. Acts ch. 111, sec. 102, effective July 13, 1984. -- Amended 1974 Ky. Acts ch. 74, Art. II, sec. 9(1). -- Amended 1952 Ky. Acts ch. 41, sec. 12. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4591a.

164.525 Center for Mathematics -- Creation, duties, and location.

- (1) The Center for Mathematics is hereby created to make available professional development for teachers in reliable, research-based diagnostic assessment and intervention strategies, coaching and mentoring models, and other programs in mathematics. The center shall be headed by an executive director and administered by a public postsecondary education institution. The center shall:
 - (a) Act as a clearinghouse for information about professional development programs for teachers that address mathematics diagnostic assessment, intervention programs, coaching and mentoring programs, and other instructional strategies to address students' needs;
 - (b) Collaborate with Kentucky's other public and private postsecondary institutions to develop teachers' mathematical knowledge needed for teaching and help teachers improve students' mathematical concepts, thinking, problem-solving, and skills, with an emphasis on diagnostic assessment and intervention programs for students in the primary program;
 - (c) Provide teacher training to develop teacher leaders and teaching specialists in primary programs who have skills in diagnostic assessment and intervention services to assist struggling students or those who are at risk of failure in mathematics. The center may contract for services in order to carry out this responsibility;
 - (d) Maintain a demonstration and training site for mathematics located at each of the public universities;
 - (e) Advise the Kentucky Department of Education and Kentucky Board of Education regarding:
 1. Early mathematics content, diagnostic assessment practices, and intervention programs;
 2. Costs and effectiveness of various mathematics intervention programs;
 3. Coaching and mentoring models that help improve student achievements; and
 4. Trends and issues relating to mathematics programs in schools throughout the state; and
 - (f) Disseminate information to teachers, administrators, and policymakers on an ongoing basis.
- (2) The Council on Postsecondary Education shall select a location for the center no later than January 1, 2006. The council shall use a request for proposal process. In developing the request for proposal, the council shall seek advice from the Committee for Mathematics Achievement created in KRS 158.842 and the commissioner of education. The center shall be located at the selected university through July 1, 2011, unless funding is not available, the council deems the performance of the institute to be inadequate, or the university requests to discontinue its relationship to the institute. Contingent upon available funding at the end of the initial cycle, and each five (5) year period thereafter, the council shall

issue a request for proposal to all public postsecondary education institutions to administer the center.

Effective: March 18, 2005

History: Created 2005 Ky. Acts ch. 164, sec. 4, effective March 18, 2005.

Legislative Research Commission Note (3/18/2005). 2005 Ky. Acts ch. 164, sec. 4, contained one reference to the Mathematics Achievement Committee. The correct name for this entity is the Committee for Mathematics Achievement. The Statute Reviser, under the authority of KRS 7.136, has changed this reference to be consistent with sec. 2 of this Act, which created the Committee for Mathematics Achievement and was codified as KRS 158.842.

164.530 Regional Compact of Southern States for Educational Services -- Approval and signature of -- Legislative Advisory Council to Southern Regional Education Board -- Membership -- Legislative Work Conference.

- (1) The Regional Compact of Southern States for Regional Educational Services [the text of which is set forth at length in Chapter 252 of the Acts of the 1950 General Assembly] be and the same is hereby approved and the State of Kentucky is hereby declared to be a party thereto, and the agreements, covenants, and obligations therein are declared to be binding upon the State of Kentucky.
- (2) The Governor shall sign an engrossed copy of the compact and sufficient copies be provided so that every state approving the compact shall have an engrossed copy.
- (3)
 - (a) The Kentucky members of the Legislative Advisory Council to the Southern Regional Education Board shall be represented by three (3) members of the Kentucky Senate, at least one (1) of whom shall be a member of the minority party, appointed by the President of the Senate; and three (3) members of the Kentucky House of Representatives, at least one (1) of whom shall be a member of the minority party, appointed by the Speaker of the House of Representatives.
 - (b) The President of the Senate shall appoint five (5) delegates to the Legislative Work Conference and the Speaker of the House of Representatives shall appoint five (5) delegates to the Legislative Work Conference. The delegates shall include the Legislative Advisory Council members from each chamber.

Effective: March 31, 2003

History: Amended 2003 Ky. Acts ch. 160, sec. 4, effective March 31, 2003. -- Created 1950 Ky. Acts ch. 252, secs. 1 and 2.

164.6011 Definitions for KRS 164.6011 to 164.6041.

As used in KRS 164.6011 to 164.6041, unless the context indicates otherwise:

- (1) "Applied research" means those research activities occurring at universities and in private enterprises that have potential commercial application;
- (2) "Cluster" means a geographically bound concentration of similar, related, or complementary businesses with active channels for business transactions, communications, and dialogue, that share specialized infrastructure, labor markets, and services, and that are faced with common opportunities and threats;
- (3) "Commission" means the Kentucky Innovation Commission;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Council" means the Council on Postsecondary Education;
- (6) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, person, group, or other entity engaged in nonretail commerce, agribusiness, trade, or manufacturing;
- (7) "Immediate family members" means:
 - (a) Spouse and parents-in-law;
 - (b) Parents and grandparents;
 - (c) Children and their spouses; and
 - (d) Siblings and their spouses;
- (8) "Kentucky-based company" means a business with its principal place of business in Kentucky or no less than fifty percent (50%) of its property and payroll located in Kentucky;
- (9) "Knowledge-based" means driven by knowledge, innovation, and speed;
- (10) "Medium-size company" means a business with fifty-one (51) to one hundred fifty (150) employees;
- (11) "Qualified company" means an eligible company that may be granted a funding voucher or award pending certification;
- (12) "Science and technology organization" means an independent, nonprofit or quasi-governmental organization, with a statewide mission, that has a demonstrated history of managing complicated programs in the areas of entrepreneurial innovation, science, and technology advancement;
- (13) "Seed funding" means financing that is provided for early-stage development, refinement, and commercialization of a product, process, or innovation through continuing applied research, advancing the patent process, determining commercial and market potential, or moving research toward development of a prototype; and
- (14) "Small company" means a firm with fifty (50) or fewer employees.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 149, sec. 223, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 230, sec. 29, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 522, sec. 1, effective July 14, 2000.

164.6013 Legislative findings on promotion of research, innovation, and high-technology enterprises.

The General Assembly finds that the general welfare and material well-being of the citizens of the Commonwealth depend on immediate action to develop a strong, entrepreneurial economy, characterized by knowledge, innovation, and speed and that it is in the best interest of the Commonwealth to promote research, innovation, and high-technology enterprises that utilize the higher-order skills of an educated workforce. The provisions in KRS 164.6011 to 164.6041, 154.12-274, 154.12-278, and KRS 154.12-300 to 154.12-315 shall be liberally construed and applied to advance public purposes.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 230, sec. 30, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 522, sec. 2, effective July 14, 2000.

164.6015 Kentucky Innovation Commission -- Members -- Duties -- Support staff.

- (1) There is established the Kentucky Innovation Commission, as an independent advisory commission, consisting of fifteen (15) members as follows:
 - (a) The Governor or designee;
 - (b) The secretary of the Governor's Executive Cabinet or designee;
 - (c) The secretary of the Cabinet for Economic Development or designee;
 - (d) The president of the Council on Postsecondary Education or designee;
 - (e) The state budget director or designee;
 - (f) The Speaker of the House or designee;
 - (g) The President of the Senate or designee; and
 - (h) Eight (8) at-large members appointed by the Governor as follows:
 1. Four (4) members of the private sector possessing extensive experience and expertise relating to managing a high-technology business or engaging in an innovation-driven, knowledge-based enterprise;
 2. One (1) member engaged in the business of venture capital;
 3. One (1) member of the private sector possessing extensive experience and expertise relating to providing or supporting communications infrastructure; and
 4. Two (2) members who are engineers or scientists recognized for their scientific or technological research efforts, or educators with an interest or background in teaching students to become highly skilled workers or entrepreneurs.
- (2) The eight (8) at-large members shall serve terms of four (4) years, except that the original appointments shall be staggered so that two (2) appointments shall expire at two (2) years, three (3) appointments shall expire at three (3) years, and three (3) appointments shall expire at four (4) years from the dates of initial appointment.
- (3) The commission shall meet quarterly and at other times upon call by the chair.
- (4) Eight (8) members shall constitute a quorum for conducting business.
- (5) Members shall receive no compensation except that the at-large members shall be reimbursed for actual and necessary travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.
- (6) A vacancy shall be filled in the same manner as the original appointment.
- (7) The chair and vice chair of the commission shall be appointed by the Governor.
- (8) The commission shall provide ongoing advice, direction, and policy recommendations to the Governor and the General Assembly relating to the status of Kentucky knowledge-driven businesses, research and development initiatives, and related high-skill training and education in the Commonwealth.
- (9) The duties and responsibilities of the commission shall be to:

- (a) Promote the cooperation of private and public entities that have the purpose and duty of advancing the knowledge-based economy in the Commonwealth through technological innovation and knowledge transfer;
- (b) Report on the progress the Commonwealth has made annually toward achieving the goals in KRS 164.6013 through its agreed-upon benchmarks. In the setting of benchmarks the commission shall consider performance indicators recommended by public and private experts in and outside of the state in the fields of research and development and economic development, for the purpose of recommending benchmarks. Experts in this state shall include but not be limited to representatives from the universities undertaking research and development activities, representatives of the Kentucky Science and Technology Corporation, representatives of targeted technology sectors, representatives of the Cabinet for Economic Development, and representatives of other state agencies having economic development and information technology responsibilities. Outside state experts shall include nationally recognized independent reviewers to assess the competitiveness of technology sectors in this state and the impact of research and development activities on economic development in the Commonwealth. Quantitative and qualitative indicators may include but are not limited to the following:
 - 1. Kentucky companies modernizing to become more technologically innovative and globally competitive;
 - 2. Research and development initiatives undertaken at Kentucky universities with federal, state, or private funds;
 - 3. Educational attainment in areas that support the workforce needs of information technology and high-growth knowledge industries;
 - 4. High-technology sectors and companies moving to and operating in the state;
 - 5. Patents filed for technology or knowledge-based commercial products, processes, or services;
 - 6. Businesses using electronic commerce and the communications infrastructure access capacity for Kentucky businesses;
 - 7. Growth in corporate headquarters, research and development centers, high-income employees, and clustering of related technology industries and suppliers; and
 - 8. Monitoring reports indicating progress made by the Kentucky Innovation Act investments as reported by the Department of Commercialization and Innovation and the Council on Postsecondary Education;
- (c) Operate as a common strategic umbrella to advocate for the use of federal, state, local government, and private sector funds to create research and development projects, modernize manufacturing facilities, and promote knowledge-based, technology sectors and companies in the Commonwealth; and

- (d) Report to the Governor and to the General Assembly annually on performance indicators, recommending benchmarks for measuring progress toward the advancement of the knowledge-based economy, technological innovation, and knowledge transfer, and reporting on the programs and initiatives set forth in KRS 164.6019 to 164.6041, 154.12-274, 154.12-278, and KRS 154.12-300 to 154.12-315.
- (10) The support staff for the commission shall be from the office of the state budget director.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 210, sec. 10, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 181, sec. 14, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 230, sec. 31, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 522, sec. 3, effective July 14, 2000.

164.6019 Kentucky research and development voucher fund.

There is established and created in the State Treasury a fund entitled the "Kentucky Research and Development Voucher Fund" for the purpose of enabling small or medium-size, Kentucky-based companies to undertake research and development work in partnership with universities in the Commonwealth. The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Research and Development Voucher Program.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 522, sec. 5, effective July 14, 2000.

164.602 Nominating commission for appointments to board of directors.

- (1) There shall be a nominating commission for each college board of directors required under KRS 164.600 to provide names of nominees to the Governor for appointment to the board of directors.
- (2)
 - (a) Each nominating commission shall be composed of five (5) members appointed by the Governor who shall reside in the service area of the college at the time of their appointment. Commission members shall have no conflict of interest in accordance with KRS 45A.340 or have a relative employed by a public postsecondary institution, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Kentucky Higher Education Student Loan Corporation, or the Kentucky Authority for Educational Television.
 - (b) Members of the nominating commission shall serve four (4) year terms, or until a successor shall be appointed, except the initial appointments shall be as follows:
 1. One (1) member shall serve a one (1) year term;
 2. Two (2) members shall serve a two (2) year term;
 3. One (1) member shall serve a three (3) year term; and
 4. One (1) member shall serve a four (4) year term.
- (3) The Governor shall appoint commission members who reflect, inasmuch as possible, equal representation of the two (2) sexes and in the context of the total membership of all of the commissions, shall approximate the proportional representation of the two (2) leading political parties and the minority racial composition of the state.
- (4)
 - (a) The nominating commission shall submit to the Governor the names of three (3) nominees for each position on the board of directors who meet the eligibility criteria for membership under KRS 164.600.
 - (b) In the selection of the nominees, the nominating commission shall consider the needs of the respective college, locate potential appointees, review candidates' qualifications and references, conduct interviews, and carry out other search and screening activities as necessary. The commission shall consider the goals for diversity of membership as set out in subsection (3) of this section.
 - (c) Each appointment to the board of directors shall be made thirty (30) days prior to the expiration of a term or as soon as practicable following an unforeseen vacancy. The Governor may reject all names of nominees and request the submission of three (3) additional names for consideration.
- (5) The members of the commissions shall be reimbursed for actual and necessary expenditures incurred in the performance of their duties.
- (6) The nominating commissions shall be attached to the Kentucky Community and Technical College System and the Governor's office staff shall provide staffing and administrative assistance.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 56, sec. 6, effective June 24, 2003. -- Created
2000 Ky. Acts ch. 214, sec. 1, effective July 14, 2000.

164.6021 Kentucky Research and Development Voucher Program.

- (1) There is created and established in the Council on Postsecondary Education a Kentucky Research and Development Voucher Program to provide vouchers to small and medium-size, Kentucky-based companies to undertake research and development work in partnership with universities in the Commonwealth.
- (2) The purpose of the Kentucky Research and Development Voucher Program is to:
 - (a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;
 - (b) Support research and development activities that have clear potential to lead to commercially successful products, processes, or services within a reasonable period of time;
 - (c) Stimulate growth-oriented enterprises within the Commonwealth;
 - (d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's universities, and research organizations; and
 - (e) Promote research and development activities that are market-oriented.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 522, sec. 6, effective July 14, 2000.

164.6023 Authority of the science and technology organization to review applications, qualify companies, and certify qualified companies.

- (1) The science and technology organization shall have the authority to review applications, qualify companies, and certify qualified companies.
- (2) The science and technology organization shall develop application criteria and an application process subject to the following limitations. The proposed research and development project shall be likely to:
 - (a) Produce a measurable result and be technically sound;
 - (b) Lead to innovative technology or new knowledge;
 - (c) Lead to commercially successful products, processes, or services within a reasonable period of time; or
 - (d) Show significant potential for stimulating economic growth and a reasonable probability to enhance employment opportunities within the Commonwealth.
- (3) The applicant shall provide to the science and technology organization an application that shall include but not be limited to the following information:
 - (a) Verification that the applicant is an eligible company that meets the definition of a Kentucky-based company and medium-size company or small company;
 - (b) A technical research plan that is sufficient for outside expert review;
 - (c) A detailed financial analysis that includes the commitment of resources by the applicant and others;
 - (d) Sufficient detail concerning proposed project partners, type and amount of work to be performed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement; and
 - (e) A statement of the economic development potential of the project.
- (4) The science and technology organization shall conduct an independent review with the use of outside experts to evaluate each application. Following the application review, the science and technology organization shall make a determination of the application and may determine that the applicant is a qualified company as defined in KRS 164.6011.
- (5) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (6) of this section, the science and technology organization shall present the qualified company, the project partner, if any, and the university in the Commonwealth with a certification authorizing voucher funding.
- (6) Prior to receiving certification authorizing voucher funding from the science and technology organization, the qualified company shall:
 - (a) Negotiate an agreement and funding contract with a university in the Commonwealth and with a project partner, if any, that is satisfactory to the science and technology organization, to undertake the research and development work; and
 - (b) Provide assurance to the science and technology organization that the university and the qualified company have negotiated the ownership and

disposition of patents, royalties, all other intellectual property rights, and equity or related position relating to the contract between the qualifying company and the university.

- (7) Prior to certifying a qualified company, the science and technology organization may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky research and development voucher fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of KRS 164.6021, 164.6023, and 164.6025.
- (8) The science and technology organization, upon approval by the council, shall set forth guidelines as to when and how all areas of the state will be notified about the program's availability and a program schedule, including but not limited to the following:
 - (a) A review cycle including:
 1. A deadline for submission of applications at least biannually; and
 2. A deadline for reviewing applications of no more than one hundred twenty (120) days after the application submission deadline; and
 - (b) A deadline, from the date an applicant is determined to be a qualified company, by which certification shall be made. If certification is not made by that deadline the funding voucher award is made void.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 230, sec. 39, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 522, sec. 7, effective July 14, 2000.

164.6025 Limitations upon project funding in the Kentucky Research and Development Voucher Program.

Project funding in the Kentucky Research and Development Voucher Program shall have the following limitations:

- (1) At a minimum, fifty-one percent (51%) of any voucher award funds from the state fund shall be expended within the university in the Commonwealth under contract;
- (2) The maximum amount of voucher funds awarded to a qualified company shall not exceed one hundred thousand dollars (\$100,000) each year for two (2) years, equal to a maximum of two hundred thousand dollars (\$200,000); and
- (3) At a minimum, the qualified company shall match the project award by a one-to-one dollar ratio for each year of the project. The science and technology organization has sole discretion to authorize an in-kind contribution in lieu of part of the industry match if the science and technology organization determines that the financial limitations of the qualified company warrants this authorization.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 230, sec. 40, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 522, sec. 8, effective July 14, 2000.

164.6027 Kentucky rural innovation fund.

There is established and created in the State Treasury a fund entitled the "Kentucky Rural Innovation Fund" for the purpose of enabling small, rural Kentucky-based firms to undertake research and development, and entrepreneurial innovation work in partnership with postsecondary institutions in the Commonwealth. The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Rural Innovation Program.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 522, sec. 9, effective July 14, 2000.

164.6029 Kentucky Rural Innovation Program -- Purposes.

- (1) There is created and established in the Council on Postsecondary Education a Kentucky Rural Innovation Program to provide awards to rural Kentucky-based, small companies to undertake research, development, and entrepreneurial innovation work in partnership with Kentucky postsecondary institutions, the Small Business Development Center Network in Kentucky, and other entities engaged in research and development work.
- (2) The purpose of the Kentucky Rural Innovation Program is to:
 - (a) Accelerate knowledge transfer and technological innovation that improve economic competitiveness and spur economic growth in rural, Kentucky-based, small companies;
 - (b) Support entrepreneurial activities that have clear potential to lead to commercially successful products, processes, or services within a reasonable period of time;
 - (c) Stimulate growth-oriented enterprises within the Commonwealth;
 - (d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's postsecondary institutions, research organizations, and the Small Business Development Center Network in Kentucky; and
 - (e) Promote research, development, and entrepreneurial activities that are driven by private sector requirements.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 230, sec. 33, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 522, sec. 10, effective July 14, 2000.

164.6031 Authority of the science and technology organization to review applications, grant awards to qualifying companies, and certify qualified companies.

- (1) The science and technology organization shall have the authority to review applications, grant awards to qualifying companies, and certify qualified companies. The science and technology organization shall develop application criteria and an application process subject to the following limitations. The proposed project shall be likely to:
 - (a) Produce a measurable result and be technically sound;
 - (b) Lead to innovative technology or new knowledge;
 - (c) Lead to commercially successful products, processes, or services within a reasonable period of time; or
 - (d) Show significant potential for stimulating economic growth and a reasonable probability to enhance employment opportunities within rural Kentucky.
- (2) The applicant shall provide to the science and technology organization an application that shall include but not be limited to the following information:
 - (a) Verification that the applicant is an eligible company, a Kentucky-based company, and a small company, and is located in a rural area of the state;
 - (b) Written justification that the project application is consistent with the program purposes;
 - (c) A research, development, and entrepreneurial plan that is sufficient in scope for review;
 - (d) A financial analysis and resource support plan that includes sufficient commitments by the applicant and others, in addition to a Kentucky Rural Innovation award, providing a reasonable probability of the success of the project endeavor;
 - (e) Sufficient detail concerning proposed project partners, type and amount of work to be performed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement; and
 - (f) A statement of the economic development potential of the project.
- (3) The science and technology organization shall conduct an independent review with the use of outside experts to evaluate each application. Following the application review, the council shall make a determination of the application and may determine that the applicant is a qualified company as defined in KRS 164.6011.
- (4) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (5) of this section the science and technology organization shall present the qualified company and partnering entities with a certification authorizing award funding.
- (5) Prior to receiving certification authorizing award funding the qualified company shall:
 - (a) Negotiate an agreement and funding contract with one (1) or more of Kentucky's postsecondary institutions, the Small Business Development

Center Network for approved project activities specified under KRS 154.01-750(4), or other entity engaged in the research and development work, that is satisfactory to the science and technology organization, to undertake the research and development and entrepreneurial work; and

- (b) Provide assurance to the science and technology organization that the collaborating parties have adequately addressed the ownership and disposition of patents, royalties, and all other intellectual property rights, and equity or related position relating to the contract between the qualifying company and a partnering entity.
- (6) The science and technology organization shall set forth guidelines as to when and how all areas of the state will be notified about the program availability and guidelines for making application to the program. The science and technology organization shall determine a deadline, from the date an award is granted, that certification shall be made. If certification is not made by that deadline the award is made void.
- (7) Prior to certifying a qualified company, the science and technology organization may negotiate with the qualified company the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky rural innovation fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of this section and KRS 164.6029 and 164.6033.
- (8) The council shall, in effectuating the provisions of this section, contract with a science and technology organization to administer and manage the Kentucky Rural Innovation Program.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 230, sec. 34, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 522, sec. 11, effective July 14, 2000.

164.6033 Limitations upon project funding in the Kentucky Rural Innovation Program.

Project funding in the Kentucky Rural Innovation Program shall have the following limitations:

- (1) Award funds shall be used as seed funding as defined in KRS 164.6011;
- (2) Award funds may be used for those entrepreneurial training topics specified in KRS 154.01-750(4), if they meet particular objectives of a qualified company as delineated in the project application; and
- (3) The amount of a fund award to a qualified company shall not exceed fifty thousand dollars (\$50,000) each year for two (2) years, equal to a maximum of one hundred thousand dollars (\$100,000).

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 230, sec. 35, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 522, sec. 12, effective July 14, 2000.

164.6035 Kentucky commercialization fund.

There is established and created in the State Treasury a fund entitled the "Kentucky Commercialization Fund" to provide development funds for promising technologies developed through the research and development work undertaken at the universities in the Commonwealth. The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Commercialization Fund Program.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 522, sec. 13, effective July 14, 2000.

164.6037 Kentucky Commercialization Fund Program -- Purposes.

- (1) There is created and established in the Council on Postsecondary Education a Kentucky Commercialization Fund Program to provide seed funding as defined in KRS 164.6011, for the development of promising technologies emerging from Kentucky's universities.
- (2) The purposes of the Kentucky Commercialization Fund Program are to:
 - (a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;
 - (b) Provide seed funding for promising technologies developed in Kentucky's universities;
 - (c) Support promising technologies with commercial potential that are in their early stages of development;
 - (d) Promote technologies and resources offered by Kentucky's postsecondary institutions to private enterprises; and
 - (e) Support the formation and organization of private enterprise that advances commercial applications based on a university's research and development work.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 522, sec. 14, effective July 14, 2000.

164.6039 The science and technology organization to review, evaluate, and recommend proposal applications submitted by universities and report to council -- Council's power to approve program fund awards.

- (1) The science and technology organization shall conduct an outside review to evaluate each proposal.
- (2) The science and technology organization shall have the authority to review and provide to the council a reporting of recommended fund projects, which includes a ranking of projects, suggested funding amounts for each project, and reasons for recommending the selected project.
- (3) The council shall receive from the science and technology organization a reporting of recommended projects and shall have the final approval on program fund awards.
- (4) The science and technology organization shall recommend projects based on proposal applications submitted by Kentucky's universities. The proposals shall be selected on criteria that include, but are not limited to, the following:
 - (a) Competitive, external peer review;
 - (b) Merits of the proposal to meet the program's purposes under KRS 164.6037(2); and
 - (c) Potential of the proposal to increase the competitiveness of Kentucky businesses.
- (5) Prior to final approval of fund awards, the university submitting the proposal shall provide assurance to the science and technology organization that the collaborating parties have adequately addressed the ownership and disposition of patents, royalties, and all other intellectual property rights, and equity or related position relating to the contract between the qualifying company and a partnering entity.
- (6) Prior to approval of funding awards, the science and technology organization may negotiate with the university the ownership and disposition of patents, royalties, all other intellectual property rights, and an equity or related position on behalf of the Kentucky commercialization fund for the sole purpose of reinvesting and sustaining a revolving fund to carry out the provisions of KRS 164.6037, 164.6039, and 164.6041.
- (7) The science and technology organization, upon approval by the council, shall set forth guidelines as to when and how all areas of the state will be notified about the program availability and a program schedule, including, but not limited to, the following:
 - (a) A review cycle including:
 1. A deadline for submission of proposals at least biannually; and
 2. A deadline for proposal review of no more than one hundred twenty (120) days after the proposal application submission deadline; and
 - (b) A deadline for the awarding of approved projects and program funds.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 522, sec. 15, effective July 14, 2000.

164.6041 Limitations upon project funding in the Kentucky Commercialization Fund Program.

Project funding in the Kentucky Commercialization Fund Program shall have the following limitations:

- (1) The maximum amount of funding for a project award shall not exceed seventy-five thousand dollars (\$75,000) each year up to three (3) years, equal to a maximum of two hundred twenty-five thousand dollars (\$225,000); and
- (2) The University of Kentucky and the University of Louisville shall be awarded together no more than seventy percent (70%) of fund awards.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 522, sec. 16, effective July 14, 2000.

164.605 Short title.

KRS 164.605 to 164.675 may be cited as the District Cooperative Extension Service Law.

History: Created 1962 Ky. Acts ch. 275, sec. 1.

164.610 Purpose.

In enacting KRS 164.605 to 164.675, it is the intention of the General Assembly to provide for aid in disseminating among the people of Kentucky useful and practical information on subjects relating to agriculture, home economics, and rural and community life and to encourage the application of the same in the several counties of the Commonwealth through extension work to be carried on in cooperation with the University of Kentucky College of Agriculture and Home Economics, and the United States Department of Agriculture as provided in the Act of Congress May 8, 1914, as amended by Public Law 83 of the 83rd Congress.

History: Created 1962 Ky. Acts ch. 275, sec. 2.

164.615 Definitions for KRS 164.605 to 164.675.

As used in KRS 164.605 to 164.675, unless the context requires otherwise:

- (1) "Cooperative extension service district" or "extension district" means the district authorized by KRS 164.620;
- (2) "County cooperative extension service council" or "extension council" means the organization authorized by KRS 164.625;
- (3) "College of Agriculture" means the College of Agriculture and Home Economics of the University of Kentucky;
- (4) "Extension service" means the cooperative extension service in agriculture and home economics of the College of Agriculture of the University of Kentucky and the United States Department of Agriculture;
- (5) "Director of extension" means the director of the Kentucky cooperative extension service of the College of Agriculture of the University of Kentucky;
- (6) "District cooperative extension service board" or "extension board" means the board authorized by KRS 164.630 and 164.635.

History: Created 1962 Ky. Acts ch. 275, sec. 3.

164.620 Extension districts authorized.

There is hereby authorized for each county an extension district whose boundaries shall be coexistent with the county boundaries. Such districts may be created by the fiscal court of the county. Each extension district shall constitute a governmental subdivision of the Commonwealth and a public body corporate.

History: Created 1962 Ky. Acts ch. 275, sec. 4.

164.625 Regulations, authority, and duty of director of extension -- Extension council, membership, bylaws.

- (1) The director of extension is hereby authorized to promulgate regulations relating to the establishment of and continuation of extension councils. Said regulations may apply to a specific county.
- (2) An extension council shall be established for each extension district. Each extension council shall be organized under regulations approved by the director of extension and shall be comprised of not less than fifteen (15) citizens nor more than forty (40) citizens of the county in which the extension district is located, subject to the provisions of subsection (2) of KRS 164.635. All members of the extension council shall be appointed by the county groups and organizations of the county whose major interest is in agriculture and home economics such as farm bureaus, homemaker councils, 4-H Club councils and various commodity groups but is not necessarily limited to those mentioned. In event of question the eligibility of a group to appoint to the extension council shall be determined by the director of extension. The number of members of each extension council shall be determined by the size of the county, the diversity of agricultural interests of the county, and other like factors and shall be according to regulations mentioned in subsection (1) of this section. Each extension council shall adopt a set of bylaws providing for its operation and terms of membership according to the same regulations.
- (3) All regulations issued under the provisions of this section shall be filed in accordance with KRS Chapter 13A. Immediately after filing, the director of extension shall cause the text of every regulation to be published pursuant to KRS Chapter 424. The director of extension shall also mail two (2) copies of every regulation to the county clerk of the county in which the regulation is applicable, one (1) copy of which shall be posted on the courthouse door or bulletin board. Additional distribution may be made at the discretion of the director of extension.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 384, sec. 294, effective June 17, 1978. --
Amended 1966 Ky. Acts ch. 239, sec. 149. -- Created 1962 Ky. Acts ch. 275, sec. 5.

164.630 Extension board authorized.

An extension board may be created by the fiscal court of the county in which the extension district is located. The extension board, as the governing body of the extension council, shall be composed of the county judge/executive and six (6) other citizens residing within the extension district.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Created 1962 Ky. Acts ch. 275, sec. 6.

164.630 Extension board authorized.

An extension board may be created by the fiscal court of the county in which the extension district is located. The extension board, as the governing body of the extension council, shall be composed of the county judge/executive and six (6) other citizens residing within the extension district.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Created 1962 Ky. Acts ch. 275, sec. 6.

164.635 Extension board -- Membership, appointment, term, vacancy, removal of member.

- (1) Appointment of the six (6) members, other than the county judge/executive, to the extension board shall be made by the county judge/executive of the county in which the extension district is located. These appointments shall be made, with the approval of the fiscal court, from nominations submitted by the extension council in the county in which said district is located. Said council, to be eligible to submit nominations, shall be organized and functioning in accordance with procedures approved by the director of extension.
- (2) On or before November 1 of each year the extension council shall submit to the county judge/executive a list of two (2) nominees for each member to be appointed to the extension board. On or before December 1 of each year the county judge/executive shall from this list appoint the required board members. If for any reason the county judge/executive fails to appoint the required members by December 15 of the year in question, they may be appointed by the director of extension. On the first board two (2) members shall be appointed for terms of three (3) years, two (2) for terms of two (2) years and two (2) for terms of one (1) year. Thereafter, all appointments shall be for terms of three (3) years and shall become effective on the first of January following appointment. Each member shall serve until his successor is appointed and qualified. Appointment of members to fill vacancies shall be in the same manner as those for other members. Board members may be appointed and the first board organized immediately after June 14, 1962. In this case the period served in 1962 shall be in addition to the regular terms of the members which start on January 1, 1963. Each board member shall, by virtue of his membership on the board, become a member of the extension council. This membership on the extension council may be in addition to the maximum of forty (40) as listed in subsection (2) of KRS 164.625.
- (3) A board member may be removed from office as provided by KRS 65.007.

Effective: July 15, 1980

History: Amended 1980 Ky. Acts ch. 18, sec. 14, effective July 15, 1980. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Created 1962 Ky. Acts ch. 275, sec. 7.

164.640 Organization.

On or before January 15 following the creation of the extension board, the county judge/executive shall call all duly appointed board members together for an organization meeting. The county judge/executive shall serve as chairman until all officers are elected. The officers of the board shall consist of a chairman, vice chairman, secretary and treasurer. The positions of secretary and treasurer may be held by the same person and this person may be other than a board member, with the approval of the director of extension.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Created 1962 Ky. Acts ch. 275, sec. 8.

164.645 Meetings required.

The extension board shall meet annually during the month of January for the election of officers and for the transaction of other necessary business and may hold such other meetings during the year as shall be determined and fixed by the extension board.

History: Created 1962 Ky. Acts ch. 275, sec. 9.

164.650 Duties of officers -- Oath.

- (1) The chairman of the extension board shall preside at all meetings of the board, have authority to call special meetings of said board upon such notice as shall be fixed and determined by the extension board, and shall call special meetings of the extension board upon the written request of the majority of the members of said board, and in addition to the duties imposed upon him by KRS 164.605 to 164.675, perform and exercise the usual duties performed and exercised by a chairman or president of a board of directors of a corporation.
- (2) The vice chairman, in the absence or disability of the chairman or his refusal to act, shall perform the duties imposed upon the chairman and act in his stead.
- (3) The secretary shall perform the duties usually incident to this office. He shall keep the minutes of all meetings of the extension board. He shall sign such instruments and papers as provided for in KRS 164.605 to 164.675 and as may be required from time to time by the extension board.
- (4) The treasurer, within ten (10) days after his election as treasurer and before entering upon the duties of his office as treasurer, shall execute to the extension board a corporate surety bond of one hundred twenty-five percent (125%) of the amount, as near as can be ascertained, that shall be in his hands as treasurer at any one (1) time. The cost of said corporate surety bond for the treasurer shall be paid out of the district cooperative extension education funds. After said treasurer executes said corporate surety bond, he shall receive, deposit and have charge of all of the funds of the extension board and shall pay and disburse said funds as provided for by KRS 164.605 to 164.675 and as may be required from time to time by the extension board.
- (5) All members of the extension board shall take and sign the usual oath of public officers.
- (6) Each of the officers of the extension board shall perform and carry out the duties as provided for in this section and shall perform and carry out such other duties as shall be required of them from time to time by the extension board.

History: Created 1962 Ky. Acts ch. 275, sec. 10.

164.655 Extension board, powers and duties.

The extension board of each extension district shall have the following powers and duties:

- (1) To serve as an agency of the Commonwealth and to manage and transact all of the business and affairs of its district and have authority to acquire property necessary for the conduct of the business of the district for the purposes of KRS 164.605 to 164.675;
- (2) To enter into an annual memorandum of agreement with the extension service and the extension district. This memorandum of agreement shall set forth the policy pertaining to (a) appointment of personnel to serve in the district, (b) financing of extension work in the district, and (c) responsibilities of the cooperating parties in planning and executing the program;
- (3) To, and shall as soon as possible following the first meeting in which the officers are elected and annually thereafter, file in the office of the county clerk a certificate signed by its chairman and secretary, certifying the names, addresses and terms of office of each member and the names and addresses of the officers of the extension board with the signatures of the officers affixed thereto, and said certificate shall be conclusive as to the organization of the extension district, its extension board and as to its members and its officers;
- (4) With the advice of the extension council, to make and adopt such rules and regulations not inconsistent with the law as it may deem necessary for its own government in the transaction of the business of the extension district;
- (5) To cooperate with the extension service and the extension council in conducting an extension program in agriculture, home economics, youth work and related subjects in the extension district. Said program shall be planned and executed upon the advice, recommendations and assistance of the extension council with the board to make final decisions;
- (6) To cooperate with other extension districts in the employment of personnel, conduct of programs and sponsorship of activities for the mutual benefit of each;
- (7) To cooperate with all extension organizations, farm organizations, state and federal agencies, civic clubs and any other organizations who may be interested in and willing to cooperate in conducting the extension programs in the extension district;
- (8) To prepare annually not later than April 15 of each year in cooperation with the director of extension an extension district budget for the ensuing year. This budget shall be prepared with consideration being given to the advice and recommendations of the extension council, must be consistent with financing policies of the extension service and shall reflect the agricultural, home economics, youth and related subject matter needs of people in the extension district;
- (9) To deposit all district extension education funds in a bank or banks approved by it in the name of the extension district. These receipts shall constitute a fund known as the district cooperative extension education fund which shall be disbursed by the treasurer of the extension board in accordance with the annual budget and the annual memorandum of agreement between the board and the extension service;

- (10) To, from time to time when necessary and on approval of the fiscal court, borrow such funds as may be required to meet the financial obligations of the extension district; provided, however, that the extension board cannot in any fiscal year incur indebtedness in an amount which would be in excess of the anticipated revenue of said district for the fiscal year. The amount of the anticipated revenue shall be certified to said board by the fiscal court of the county in which the district is located;
- (11) To expand the district cooperative extension education fund for salaries and travel expense of extension personnel, rental, office supplies, equipment, communications, office facilities, services and property acquisition and in payment of such other items as may be necessary to carry out the extension district program;
- (12) To carry over unexpended district cooperative extension education funds into the next fiscal year so that funds will be available to carry on the program; provided, however, that such anticipated carry-over funds shall be taken into consideration in the formulation of the extension district budget for the ensuing year;
- (13) To file with the county fiscal court or board of commissioners and directors of extension and to publish in one (1) newspaper of general circulation in the county before October 1 of each year a report under oath of all receipts and expenditures of such district cooperative extension education funds showing from whom received, to whom paid and for what purpose for the last fiscal year;
- (14) To be remunerated from the district cooperative extension education fund for actual expenses incurred in the performance of services for the extension district; provided, however, that payments for expenses must be approved by the extension board;
- (15) To accept contributions from fiscal courts and boards of education for use in conducting extension work in the extension district as provided for under KRS 247.080;
- (16) To accept private funds for use in conducting extension work in the extension district; provided, however, that the acceptance of all such contributions must be approved by the director of extension; and
- (17) To collect reasonable fees for specific services which require special equipment or personnel such as soil testing services, seed testing services or other services in support of the educational program of the extension district.

History: Created 1962 Ky. Acts ch. 275, sec. 11.

164.660 Equal opportunity -- Board member restrictions.

- (1) The extension board and all persons employed in the extension district shall in planning and executing the extension program provide opportunities for all citizens of said district regardless of race, creed or status to cooperate with and receive free the educational benefits from such programs.
- (2) No near relative of a member of an extension board may be employed in extension work in the extension district in which the member is serving.
- (3) Extension districts shall not engage in commercial activities or enterprises except as provided for in subsection (17) of KRS 164.655.
- (4) No member of the extension board, excepting the county judge/executive, shall at the same time serve in any elective office in the county, city, state or federal governments.

History: Created 1962 Ky. Acts ch. 275, sec. 12.

164.670 Revenues payable to treasurer.

All revenues realized from a district cooperative extension education tax shall be due and payable to the duly elected treasurer of the extension board on or before the fifteenth of each month following collection.

History: Created 1962 Ky. Acts ch. 275, sec. 14.

164.675 Directive to extension board.

The extension board is specifically directed to cooperate with the extension service and the United States Department of Agriculture in the accomplishment of the District Cooperative Extension Education Program contemplated by KRS 164.605 to 164.675. To the end that the state and federal funds allocated to the extension service and the cooperative extension education fund of each district may be more efficiently used by the extension service and the extension board, the director of extension shall coordinate the cooperative extension education programs in the several extension districts.

History: Created 1962 Ky. Acts ch. 275, sec. 15.

164.6901 Short title.

KRS 164.6901 to 164.6935 may be cited as the Uniform Athlete Agents Act.

Effective: June 24, 2003

History: Created 2003 Ky. Acts ch. 172, sec. 1, effective June 24, 2003.

164.6903 Definitions for KRS 164.6901 to 164.6935.

As used in KRS 164.6901 to 164.6935, unless the context requires otherwise:

- (1) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;
- (2) "Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization;
- (3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male and female students, the athletic program for males or the athletic program for females, as appropriate;
- (4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;
- (5) "Division" means the Division of Occupations and Professions in the Finance and Administration Cabinet;
- (6) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;
- (7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics;
- (8) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;
- (9) "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete;
- (10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (11) "Registration" means registration as an athlete agent pursuant to KRS 164.6901 to 164.6935;
- (12) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States; and

- (13) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

Effective: June 24, 2003

History: Repealed and reenacted 2003 Ky. Acts ch. 172, sec. 2, effective June 24, 2003. -- Created 1998 Ky. Acts ch. 259, sec. 1, effective July 15, 1998.

Formerly codified as KRS 164.680.

164.6905 Role of Division of Occupations and Professions.

- (1) By acting as an athlete agent in this state, a nonresident individual appoints the Division of Occupations and Professions as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.
- (2) The division may issue subpoenas for any material that is relevant to the administration of KRS 164.6901 to 164.6935.
- (3) The division may promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to carry out the provisions of KRS 164.6901 to 164.6935.

Effective: June 24, 2003

History: Repealed and reenacted 2003 Ky. Acts ch. 172, sec. 3, effective June 24, 2003. -- Created 1998 Ky. Acts ch. 259, sec. 2, effective July 15, 1998.

Formerly codified as KRS 164.681.

164.6907 Certificate of registration required.

- (1) Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under KRS 164.6911 to 164.6913(3).
- (2) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:
 - (a) A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and
 - (b) Within seven (7) days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.
- (3) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under contract.

Effective: June 24, 2003

History: Created 2003 Ky. Acts ch. 172, sec. 4, effective June 24, 2003.

164.6909 Contents of application -- Certificate from other state.

- (1) An applicant for registration shall submit an application for registration to the division in a form prescribed by the division. An application filed under this section is a public record. The application must be in the name of an individual, and except as otherwise provided in subsection (2) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:
 - (a) The name of the applicant and the address of the applicant's principal place of business;
 - (b) The name of the applicant's business or employer, if applicable;
 - (c) Any business or occupation engaged in by the applicant for the five (5) years next preceding the date of submission of this application;
 - (d) A description of the applicant's:
 1. Formal training as an athlete;
 2. Practical experience as an athlete agent; and
 3. Educational background relating to the applicant's activities as an athlete agent;
 - (e) The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;
 - (f) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five (5) years next preceding the date of submission of the application;
 - (g) The names and addresses of all persons who are:
 1. With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and
 2. With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater;
 - (h) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony, and identify the crime;
 - (i) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;
 - (j) Any instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;

- (k) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct; and
 - (l) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (g) of this subsection as an athlete agent in any state.
- (2) An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another state, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (1) of this section. The division shall accept the application and the certificate from the other state as an application for registration in this state if the application to the other state:
- (a) Was submitted in the other state within six (6) months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;
 - (b) Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and
 - (c) Was signed by the applicant under penalty of perjury.

Effective: June 24, 2003

History: Repealed and reenacted 2003 Ky. Acts ch. 172, sec. 5, effective June 24, 2003. -- Created 1998 Ky. Acts ch. 259, sec. 3, effective July 15, 1998.

Formerly codified as KRS 164.682.

164.6911 Division may refuse to issue certificate -- Renewal of registration.

- (1) Except as otherwise provided in subsection (2) of this section, the division shall issue a certificate of registration to an individual who complies with KRS 164.6909(1) or whose application has been accepted under KRS 164.6909(2).
- (2) The division may refuse to issue a certificate of registration if the division determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the division may consider whether the applicant has:
 - (a) Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony;
 - (b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
 - (c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
 - (d) Engaged in conduct prohibited by KRS 164.6925;
 - (e) Had a registration or licensure as an athlete agent suspended, revoked, or denied, or been refused renewal of registration or licensure as an athlete agent in any state;
 - (f) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or
 - (g) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.
- (3) In making a determination under subsection (2) of this section, the division shall consider:
 - (a) How recently the conduct occurred;
 - (b) The nature of the conduct and the context in which it occurred; and
 - (c) Any other relevant conduct of the applicant.
- (4) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the division. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.
- (5) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The division shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:

- (a) Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current;
 - (b) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and
 - (c) Was signed by the applicant under penalty of perjury.
- (6) A certificate of registration or a renewal of registration is valid for one (1) year.

Effective: June 24, 2003

History: Created 2003 Ky. Acts ch. 172, sec. 6, effective June 24, 2003.

164.6913 Suspension, revocation, or nonrenewal of certificate -- Temporary certificate.

- (1) The division may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under KRS 164.6911(2).
- (2) The division may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with KRS Chapter 13B.
- (3) The division may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

Effective: June 24, 2003

History: Repealed and reenacted 2003 Ky. Acts ch. 172, sec. 7, effective June 24, 2003. -- Created 1998 Ky. Acts ch. 259, sec. 8, effective July 15, 1998.

Formerly codified as KRS 164.687.

164.6915 Fees.

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

- (1) An initial application for registration fee determined by the division, not to exceed three hundred dollars (\$300);
- (2) An annual renewal fee determined by the division, not to exceed three hundred dollars (\$300); or
- (3) An application for registration fee based upon certification of registration or licensure issued by another state determined by the division, not to exceed two hundred fifty dollars (\$250).

Effective: June 24, 2003

History: Created 2003 Ky. Acts ch. 172, sec. 8, effective June 24, 2003.

164.6917 Requirements for agency contract.

- (1) An agency contract must be in a record, signed or otherwise authenticated by the parties.
- (2) An agency contract must state or contain:
 - (a) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or may receive from any other source for entering into the contract or for providing the services;
 - (b) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;
 - (c) A description of any expenses that the student-athlete agrees to reimburse;
 - (d) A description of the services to be provided to the student-athlete;
 - (e) The duration of the contract; and
 - (f) The date of execution.
- (3) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT-ATHLETE

IF YOU SIGN THIS CONTRACT:

- (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;**
 - (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT; AND**
 - (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**
- (4) An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.
 - (5) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

Effective: June 24, 2003

History: Repealed and reenacted 2003 Ky. Acts ch. 172, sec. 9, effective June 24, 2003. -- Created 1998 Ky. Acts ch. 259, sec. 5, effective July 15, 1998.

Formerly codified as KRS 164.684.

164.6919 Notice to athletic director.

- (1) Within seventy-two (72) hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.
- (2) Within seventy-two (72) hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

Effective: June 24, 2003

History: Repealed and reenacted 2003 Ky. Acts ch. 172, sec. 10, effective June 24, 2003. -- Created 1998 Ky. Acts ch. 259, sec. 6, effective July 15, 1998.

Formerly codified as KRS 164.685.

164.6921 Cancellation of agency contract by student-athlete.

- (1) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.
- (2) A student-athlete may not waive the right to cancel an agency contract.
- (3) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

Effective: June 24, 2003

History: Created 2003 Ky. Acts ch. 172, sec. 11, effective June 24, 2003.

164.6923 Records to be retained by athlete agent.

- (1) An athlete agent shall retain the following records for a period of five (5) years:
 - (a) The name and address of each individual represented by the athlete agent;
 - (b) Any agency contract entered into by the athlete agent; and
 - (c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.
- (2) Records required to be retained in subsection (1) of this section are open to inspection by the division during normal business hours.

Effective: June 24, 2003

History: Created 2003 Ky. Acts ch. 172, sec. 12, effective June 24, 2003.

164.6925 Prohibited acts.

- (1) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:
 - (a) Give any materially false or misleading information or make a materially false promise or representation;
 - (b) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or
 - (c) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.
- (2) An athlete agent shall not intentionally:
 - (a) Initiate contact with a student-athlete unless registered under KRS 164.6901 to 164.6935;
 - (b) Refuse or fail to retain or permit inspection of the records required to be retained by KRS 164.6923;
 - (c) Fail to register when required by KRS 164.6907;
 - (d) Provide materially false or misleading information in an application for registration or renewal of registration;
 - (e) Predate or postdate an agency contract; or
 - (f) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

Effective: June 24, 2003

History: Repealed and reenacted 2003 Ky. Acts ch. 172, sec. 13, effective June 24, 2003. -- Created 1998 Ky. Acts ch. 259, sec. 4, effective July 15, 1998.

Formerly codified as KRS 164.683.

164.6927 Penalties.

- (1) Any person who engages in the business of an athlete agent or represents himself or herself as an athlete agent without being registered in accordance with KRS 164.6901 to 164.6935 shall be guilty of a Class A misdemeanor.
- (2) Any registered athlete agent who knowingly and willfully commits a prohibited act contained in KRS 164.6925 shall be guilty of a Class D felony.
- (3) Any registered athlete agent who knowingly and willfully violates any provision of KRS 164.6917 shall be guilty of a Class D felony.
- (4) A student athlete who knowingly and willfully violates any provision of KRS 164.6919 shall be guilty of a Class A misdemeanor.
- (5) Any registered athlete agent or athlete who fails to make restitution to a college or university that prevails in a suit brought under KRS 164.6929 shall be guilty of a Class D felony.

Effective: June 24, 2003

History: Repealed, reenacted, and amended 2003 Ky. Acts ch. 172, sec. 14, effective June 24, 2003. -- Created 1998 Ky. Acts ch. 259, sec. 9, effective July 15, 1998.

Formerly codified as KRS 164.689.

164.6929 Right of action of educational institution for damages caused by violation of KRS 164.6901 to 164.6935.

- (1) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of KRS 164.6901 to 164.6935. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.
- (2) Damages of an educational institution under subsection (1) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of KRS 164.6901 to 164.6935 or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.
- (3) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.
- (4) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.
- (5) The division may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars (\$25,000) for a violation of KRS 164.6901 to 164.6935.
- (6) KRS 164.6901 to 164.6935 does not restrict rights, remedies, or defenses of any person under law or equity.

Effective: June 24, 2003

History: Repealed and reenacted 2003 Ky. Acts ch. 172, sec. 15, effective June 24, 2003. -- Created 1998 Ky. Acts ch. 259, sec. 7, effective July 15, 1998.

Formerly codified as KRS 164.686.

164.6931 Construction of KRS 164.6901 to 164.6935.

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Effective: June 24, 2003

History: Created 2003 Ky. Acts ch. 172, sec. 16, effective June 24, 2003.

164.6933 Effect of federal act.

The provisions of KRS 164.6901 to 164.6935 governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 15 U.S.C. sec. 7001 et seq., and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

Effective: June 24, 2003

History: Created 2003 Ky. Acts ch. 172, sec. 17, effective June 24, 2003.

164.6935 Severability.

If any provision of KRS 164.6901 to 164.6935 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of KRS 164.6901 to 164.6935 which can be given effect without the invalid provision or application, and to this end the provisions of KRS 164.6901 to 164.6935 are severable.

Effective: June 24, 2003

History: Created 2003 Ky. Acts ch. 172, sec. 18, effective June 24, 2003.

164.705 Declaration of policy.

It is hereby declared to be the public policy of the Commonwealth to preserve archaeological sites and objects of antiquity for the public benefit and to limit exploration, excavation and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archaeology and anthropology.

History: Created 1962 Ky. Acts ch. 278, sec. 1.

164.710 Definitions for KRS 164.705 to 164.735.

As used in KRS 164.705 to 164.735, unless the context otherwise requires:

- (1) "Archaeological site" means any place where articles of value in the scientific study of historic or prehistoric human life and activities may be found, such as mounds, earthworks, forts, mines, burial grounds, graves and village or camp sites of Indians or any aboriginal race or pioneers.
- (2) "Object of antiquity" means a ruin, monument, relic, bone deposit, artifact or any product of human workmanship of Indians or any aboriginal race or pioneers.
- (3) "Department" means the Department of Anthropology of the University of Kentucky.

History: Created 1962 Ky. Acts ch. 278, sec. 2.

164.715 Prohibition.

No person shall willfully injure, destroy or deface any archaeological site or object of antiquity situated on lands owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth.

History: Created 1962 Ky. Acts ch. 278, sec. 3.

164.720 Permit required to excavate.

- (1) No person shall explore, excavate, appropriate or remove from land owned or leased by the Commonwealth or any state agency or any political subdivision or municipal corporation of the Commonwealth, any archaeological site or object of antiquity without first obtaining a permit from the Department of Anthropology upon the recommendation of the agency owning or having control of the land upon which the same is situated.
- (2) If exploration or excavation of archaeological sites and the finding and gathering of objects of antiquity is undertaken for the benefit of reputable museums, universities, colleges or other recognized scientific or educational institutions with a view to promoting the knowledge of archaeology or anthropology, permits shall be regularly granted.
- (3) Each permit issued by the department under this section shall accurately describe the location and sites of the ruins or deposits where the exploration or excavation is to be conducted and shall authorize such actions only at such location. The permit shall be upon such conditions as the department shall deem advisable for maximum effective exploration with a minimum of injury to the surrounding terrain. Each permit shall terminate upon the following thirty-first day of December, subject to an annual renewal on or before the following January 15. However, any permit may be revoked by the department at any time upon finding that explorations or excavations authorized by the permit are not being conducted lawfully or properly in accordance with its terms.

History: Created 1962 Ky. Acts ch. 278, sec. 4.

164.725 Authority to mark locations.

The department may designate archaeological sites and objects of antiquity and cause to be posted at the locations thereof appropriate signs or markers.

History: Created 1962 Ky. Acts ch. 278, sec. 5.

164.730 Report discovery.

Any person who discovers an archaeological site or object of antiquity in the course of construction work or otherwise shall report such discovery to the department.

History: Created 1962 Ky. Acts ch. 278, sec. 6.

164.735 Authority to contract with private owner.

The department may enter into contracts or cooperative agreements with private landowners relating to the preservation and proper exploration of any archaeological site or object of antiquity situated on such private land. The department may acquire, with any funds available to it for such purpose, title to any real estate upon which is located an archaeological site or object of antiquity which the department determines it is important to be preserved.

History: Created 1962 Ky. Acts ch. 278, sec. 7.

164.740 Definitions for KRS 164.740 to 164.7891.

As used in KRS 164.740 to 164.7891, the terms listed below shall have the following meanings:

- (1) "Authority" means the Kentucky Higher Education Assistance Authority.
- (2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority.
- (3) "Eligible institution" means, unless otherwise specified in this chapter, any educational institution or class of institutions designated as an institution of higher education pursuant to section 102 of the federal act, 20 U.S.C. sec. 1002, as eligible to participate in, and that actively participates in, the Federal Pell Grant Program or, for purposes of insured student loans, is defined as an eligible institution pursuant to section 435 of the federal act, 20 U.S.C. sec. 1085, provided that no right of participation shall be deemed vested pursuant to this subsection in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.
- (4) "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.
- (5) "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.
- (6) "Endorser" means a person who signs a student loan promissory note as an accommodation party, in the manner of KRS 355.3-419, and is secondarily liable for payment on such note.
- (7) "Federal Act" means the Higher Education Act of 1965, Pub. L. 89-329, as amended.
- (8) "Grant" means a gift of money, tuition discount, waiver of tuition and fees, or other monetary award that requires neither employment nor repayment, except under conditions prescribed by the board, and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.
- (9) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.
- (10) "Insured student loan" means a loan to an eligible borrower, who is qualified under the federal act, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary under the federal act.
- (11) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.
- (12) "Loan guarantee" means the certificate, document, or endorsement issued by the authority as evidence of insurance of a loan as to both principal and interest and of reinsurance by the secretary under the federal act.

- (13) "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.
- (14) "Participating lender" means any eligible lender, including the authority and the Kentucky Higher Education Student Loan Corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.
- (15) "Penal institution" means any penitentiary, detention facility, adult correctional facility, jail, or other similar institution operated by the state, local, or federal government or by private business.
- (16) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.
- (17) "Regional accrediting association" means the Middle States Association of Colleges and Schools, Commission on Higher Education; New England Association of Schools and Colleges, Commission on Institutions of Higher Education; North Central Association of Colleges and Schools, Higher Learning Commission; Northwest Association of Schools and Colleges, Commission on Colleges; Southern Association of Colleges and Schools, Commission on Colleges; or Western Association of Schools and Colleges, Accrediting Commission for Senior Colleges and Universities.
- (18) "Scholarship" means a gift of money to provide an incentive for fulfillment of a particular public purpose which may be based on any combination of financial need, superior academic ability, achievement, a special talent, or special condition serving a public purpose and such other terms and conditions as the board may prescribe.
- (19) "Secretary" means the United States Secretary of Education.
- (20) "Work study" means an award of money disbursed by the board at specified intervals to students, or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 111, sec. 1, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 180, sec. 1, effective June 24, 2003. -- Amended 2000 Ky. Acts ch. 311, sec. 1, effective July 14, 2000. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 119, effective May 30, 1997. -- Amended 1996 Ky. Acts ch. 224, sec. 2, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 447, sec. 1, effective April 11, 1994. -- Amended 1988 Ky. Acts ch. 256, sec. 1, effective July 15, 1988. -- Amended 1982 Ky. Acts ch. 403, sec. 1, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 339, sec. 1, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 215, sec. 1, effective March 29, 1976. -- Amended 1974 Ky. Acts ch. 135, sec. 1. -- Created 1966 Ky. Acts ch. 93, sec. 3.

Legislative Research Commission Note (7/7/97). The reference to KRS 355.3-415 in subsection (8) of this statute as it appeared in existing language in 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 119 was erroneous, that citation having been changed to

KRS 355.3-419 by 1996 Ky. Acts ch. 130, sec. 113. The correct reference has been restored in codification. Cf. KRS 446.270 and 446.280.

164.742 Kentucky Higher Education Assistance Authority created -- Adoption of assumed name.

- (1) There is hereby established a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth by the name of the "Kentucky Higher Education Assistance Authority." The General Assembly of the Commonwealth of Kentucky hereby finds and determines that in carrying out its functions, powers, and duties as prescribed in this chapter, the authority will be performing vital public purposes that improve the public welfare and prosperity of the people of the Commonwealth of Kentucky by promoting the availability of and enhancing accessibility to higher educational opportunities.
- (2) For purposes of transacting any business with respect to the insured student loan program in any state other than the Commonwealth, the authority may adopt an assumed name in its corporate capacity, to the extent permitted by the laws of that state. Any assumed name adopted by the authority shall not be identical to or deceptively similar to the registered name of any corporation, partnership, trust, or other business entity doing business in that state.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 350, sec. 1, effective July 15, 1996. -- Amended 1978 Ky. Acts ch. 339, sec. 2, effective June 17, 1978. -- Created 1966 Ky. Acts ch. 93, sec. 1.

164.744 Purpose of authority.

The purpose of the Kentucky Higher Education Assistance Authority shall be to improve the higher education opportunities of persons who are attending or planning to attend eligible institutions. Such purpose is hereby declared to be a public purpose for which public money may be spent. Pursuant to rules and regulations which may be adopted by the board which are not inconsistent with the federal act, the authority may:

- (1) Insure loans to students, but such insurance shall be provided only if such loans meet the criteria of the federal act and are the subject of agreements with the secretary, pursuant to the federal act and where the subject eligible lender has entered into an appropriate contract with the authority; and
- (2) Provide from funds available to it loans, grants, scholarships, and work-study awards to eligible students who are residents of Kentucky to enable such persons to pursue an eligible program of study at a participating institution located in the Commonwealth, and, if required by the federal act, to such persons attending such nonprofit institutions as may be approved by the board.

Effective: July 15, 1982

History: Amended 1982 Ky. Acts ch. 403, sec. 2, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 188, sec. 125, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 339, sec. 3, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 135, sec. 2. -- Created 1966 Ky. Acts ch. 93, sec. 2.

164.746 Board of directors -- Membership -- Terms -- Vacancies -- Officers and employees -- Compensation -- Meetings -- Bylaws, policies, and administrative regulations -- Power to adopt Model Procurement Code.

- (1) The authority shall be governed, all of its powers shall be exercised, and its duties and functions shall be performed by a board of directors.
 - (a) Subject to paragraph (b) of this subsection, voting members of the board shall consist of:
 1. Seven (7) members who shall be appointed from the general public residing in the Commonwealth of Kentucky by the Governor from nominees submitted by the Governor's Postsecondary Education Nominating Committee under KRS 164.005; and
 2. Eight (8) members of the board of directors of the Kentucky Higher Education Student Loan Corporation appointed by the Governor pursuant to KRS 164A.050(3)(a)1., who shall serve terms of office on the authority board of directors coextensive with their respective terms of office on the Kentucky Higher Education Student Loan Corporation board of directors.
 - (b) Upon resignation or expiration of the term of an appointed member of the board of the authority or the Kentucky Higher Education Student Loan Corporation, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the authority and the Kentucky Higher Education Student Loan Corporation to ten (10) members.
 - (c) In addition, the president of the Council on Postsecondary Education, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, the commissioner of education, and the secretary of the Finance and Administration Cabinet, or their designees who shall be another official of the same cabinet or agency, shall serve as voting ex officio members.
 - (d) The term of office of appointed members shall be four (4) years. Each member shall serve for the term for which he is appointed and, except as provided in paragraph (b) of this subsection, shall serve until his successor is appointed.
- (2) Subject to paragraph (b) of subsection (1) of this section, appointments to fill vacancies on the board shall be made in the same manner as regular appointments. The person appointed shall hold the position for the unexpired portion of the term only.
- (3) The board shall elect from its voting membership a chair, chair-elect, and secretary-treasurer who shall each serve for a term of one (1) year. At the conclusion of the chair's term of office, the chair-elect shall become the chair for the succeeding year and the board shall elect from its voting membership a new chair-elect.
- (4) Board members, except officers or employees of the state, shall receive compensation for their services, in the amount of one hundred dollars (\$100) per day, and may be reimbursed for actual and necessary expenses incurred in the performance of their duties under KRS 164.740 to 164.785.

- (5) The board shall provide for the holding of regular meetings and special meetings.
 - (a) A majority of the voting members shall constitute a quorum for the transaction of any business, special meetings shall be called by the chair in accordance with KRS 61.823, and either the chair or the chair-elect shall be present for the transaction of any business.
 - (b) In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.
- (6) The board shall adopt bylaws and policies governing its internal affairs and the conduct of its business, and shall adopt administrative regulations pursuant to KRS Chapter 13A, not inconsistent with law, in connection with the administration of the authority's programs and the performance of its functions and duties.
- (7) The board may:
 - (a) Appoint such officers and employees as necessary and may fix their compensation, and shall prescribe their duties notwithstanding personnel limits established by KRS 18A.010 or the biennial budget and its related documents; and
 - (b) Adopt the provisions of KRS 45A.345 to 45A.460, pursuant to KRS 45A.343.

Effective: July 1, 2005

History: Amended 2005 Ky. Acts ch. 162, sec. 1, effective July 1, 2005. -- Amended 2003 Ky. Acts ch. 180, sec. 9, effective June 24, 2003. -- Amended 2002 Ky. Acts ch. 37, sec. 5, effective July 15, 2002; and ch. 253, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 163, sec. 11, effective July 14, 2000. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 120, effective May 30, 1997. -- Amended 1996 Ky. Acts ch. 350, sec. 3, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 91, sec. 4, effective March 22, 1994; and ch. 447, sec. 4, effective April 11, 1994. -- Amended 1982 Ky. Acts ch. 403, sec. 3, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 339, sec. 4, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 135, sec. 3. -- Created 1966 Ky. Acts ch. 93, sec. 4.

164.748 Powers and duties of board.

The board shall have the following powers, functions, and duties:

- (1) To provide loan guarantees, upon terms and conditions the board may prescribe within the limitations provided by KRS 164.740 to 164.770, and the federal act in respect of loans to eligible borrowers. The board may require additional security, including endorsers it deems necessary and desirable and is not in contravention of the federal act. The purpose of the loans shall be to assist individuals in meeting the expense of their education.
- (2) To enter into agreements and undertakings with the secretary as may be required and necessary pursuant to the federal act in order to constitute the authority as a state agency qualified and empowered to insure student loans within the meaning of the federal act and to qualify insured student loans for interest payments, reimbursement, reinsurance, and other benefits available under the federal act to the authority.
- (3) To issue loan guarantees in respect of loans made to eligible borrowers by participating lenders, including the authority. No loan guarantee shall be issued, executed, and delivered by the authority unless any insured student loan resulting shall be the subject of agreements pursuant to the federal act by which the insured student loan is made the subject of interest payments, reimbursements, reinsurance, and other benefits to the extent provided by the federal act.
- (4) To promulgate administrative regulations pursuant to KRS Chapter 13A pertaining to insured student loans, loan guarantees, loans, and work-study payments and the awarding of grants, scholarships, and honorary scholarships, as provided in KRS 164.740 to 164.7891.
- (5) To enter into contracts with eligible lenders, approved by the state to lend moneys, upon terms and conditions agreed upon between the authority and the eligible lender, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.
- (6) To enter into contracts with eligible institutions, upon terms and conditions agreed upon between the authority and the eligible institution, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.
- (7) To receive funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to expend them, on behalf of the authority and for any of its purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, absolutely or in trust, and to hold, administer, and dispose of it, on behalf of the authority and for any of its purposes. The authority shall not make its debts payable out of any funds except those of the authority.
- (8) To administer federal funds allotted to the state in respect of insured student loans, loan guarantees, loans, work-study, grants, scholarships, administrative costs, and related matters.

- (9) To sue and be sued in the name of the authority and to plead and be impleaded, and to purchase, on behalf of members of the board or officers and employees of the authority, liability insurance for individual protection from liability for acts and omissions committed in the course and scope of the individual's employment or service.
- (10) To collect from individual borrowers loans made by the authority and insured student loans on which the authority has been compelled to meet its loan guarantee obligations following the inability of the participating lender involved to collect the insured student loans.
- (11) To gather information on all loans, scholarships, honorary scholarships, grants, and work-study opportunities available to Kentucky residents attending or planning to attend an eligible institution and to disseminate the information through the methods of mass communication necessary to ensure that Kentucky residents are aware of financial resources available to those attending or desiring to attend an eligible institution.
- (12) To request reports from each eligible institution or eligible lender necessary for the effective performance of its duties and to publish the information it deems necessary.
- (13) To approve, disapprove, limit, suspend, or terminate the participation of, or take emergency action to withhold authority funds and insured student loans from eligible institutions or eligible lenders in programs administered by the board, subject to the provisions of the federal act and this chapter.
- (14) To perform other acts necessary or appropriate to carry out effectively the purposes of the authority as provided by KRS 164.740 to 164.7891 and KRS 164A.010 to 164A.380.
- (15) If any conflict exists between KRS 164.740 to 164.770 and the federal act, which conflict would result in a loss by the authority of any federal funds, including, but not by way of limitation, federal funds made available to the authority under the federal act, including interest payments and reimbursement for insured student loans in default, to promulgate regulations and policies consistent with the federal act not in derogation of the Constitution and general laws of the Commonwealth.
- (16) Except where specifically prohibited by law, to secure data from any other Commonwealth of Kentucky agency or instrumentality or from any other source in furtherance of any purposes of the authority related to any program or function administered by the authority.
- (17) To enter into contracts with public or private nonprofit agencies, eligible to hold or insure student loans under the federal act, to provide for the exchange of information, not in contravention of any federal or state law, or the provision of services necessary to the administration of the authority's insured student loan programs.
- (18) To enter into contracts with the Kentucky Higher Education Student Loan Corporation, the Kentucky Educational Savings Plan Trust, and the Commonwealth postsecondary education prepaid tuition trust fund as necessary or appropriate to

facilitate their common administration, operation, and management, as required pursuant to KRS Chapter 164A.

- (19) To act as the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund under KRS 164A.700 to 164A.709.
- (20) To conduct, in accordance with KRS Chapter 13B, administrative hearings pertaining to any adverse action by the authority affecting participating institutions and lenders, eligible students, and borrowers of loans made by the authority and insured student loans guaranteed by the authority. Wage garnishment hearings and administrative review procedures pertaining to disputes concerning setoff of federal tax refunds shall be exempt under KRS 13B.020 and shall be conducted in accordance with applicable federal law. In an exempt hearing, the board or a hearing officer designated by the board may issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to the issues in dispute. Compliance with the subpoenas shall be enforceable by a court of competent jurisdiction.
- (21) To provide upon termination of the retirement plan authorized by Executive Order 75-964 to active and retired employees of the authority who participated in that plan, health insurance premiums and disability insurance benefits as provided to employees who participate in a state-administered retirement system pursuant to KRS 18A.225 to 18A.229, 61.600, and 61.702.
- (22) To delegate to the executive director general supervision and direction over the administrative function of the authority and its employees in carrying out the policies, programs, administrative regulations, and directives of the board.

Effective: July 1, 2005

History: Amended 2005 Ky. Acts ch. 162, sec. 2, effective July 1, 2005. -- Amended 2004 Ky. Acts ch. 111, sec. 2, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 180, sec. 7, effective June 24, 2003. -- Amended 1996 Ky. Acts ch. 318, sec. 55, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 447, sec. 2, effective April 11, 1994. -- Amended 1982 Ky. Acts ch. 403, sec. 4, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 339, sec. 5, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 135, sec. 4. -- Created 1966 Ky. Acts ch. 93, sec. 5.

**164.751 Distinguished Student Recognition and Scholarship Award Program --
Selection committee -- Award selection criteria.**

- (1) The Kentucky Higher Education Assistance Authority may expend such funds as appropriated and exercise the powers otherwise granted to administer the Kentucky Distinguished Student Recognition and Scholarship Award Program to reward academic excellence among the state's talented students by providing financial assistance to encourage attendance at the state's public universities, nonprofit degree granting colleges, and community colleges. Awards and scholarships shall be offered to students who demonstrate the highest potential for successful college study. Recognition awards shall be awarded only once to an individual and shall come solely from the authority. Scholarships shall be an equal match of funds between the authority and the university and may be offered annually to eligible students.
- (2)
 - (a) The Governor shall appoint a nine (9) member selection committee whose members are representative of the geographic regions of the state and have varied university affiliations. Members shall be appointed for a term of four (4) years though the initial appointments may be less than four (4) years to establish staggered terms. The selection committee shall elect a chairman at its first meeting and annually thereafter. The executive director of the authority, or his designee, shall serve as secretary to the committee. The committee shall meet at least semiannually and more often as necessary. Members shall serve without salary but shall be reimbursed for actual and necessary expenses in the same manner as state employees. Members may be reappointed to the committee;
 - (b) The authority shall promulgate regulations for the administration of the recognition award and scholarship programs. The regulations shall include but not be limited to the following:
 1. Eligibility requirements which shall include requirements that students must be Kentucky citizens who have declared an intention to attend a participating institution;
 2. Award selection criteria including but not limited to the student's rank in his class, grade-point average, leadership and service potential, and the submission of a written essay;
 3. Award amounts;
 4. Selection committee, qualifications and duties;
 5. Fund distribution formula;
 6. Application deadlines; and
 7. Administrative procedures.
- (3) The applicant pool for the recognition and scholarship awards shall be made up of the following Kentucky students:
 - (a) High school students who take one (1) of the tests required for admission to the state's public institutions of higher education in the spring or summer as a junior or in the fall as a senior shall automatically become part of the applicant

pool for awards. Students scoring in the ninety-eighth or ninety-ninth percentile on these tests shall receive invitations to submit applications for a recognition award and a scholarship award;

- (b) High school students nominated by the principal of an accredited high school which is not represented by a student described in paragraph (a) of this subsection. The nominees shall receive an invitation to apply for the awards; and
 - (c) High school graduates who have scores in the ninety-eighth or ninety-ninth percentile on prior years' tests and who have not attended college may apply for the awards.
- (4) The authority shall present recognition awards to the highest ranking students in accordance with the award selection criteria. The amount and number of awards shall be determined by the authority and shall depend on the amount of funds available. No more than twenty percent (20%) of the awards shall be awarded to students who choose to attend an independent institution.
- (5) The scholarships shall be an equal match between authority funds and institutional funds which may include any form of gift aid except state grant funds.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 37, sec. 6, effective July 15, 2002. -- Created 1986 Ky. Acts ch. 473, sec. 1, effective July 15, 1986.

164.7515 Role of authority with respect to program created by KRS 158.798.

The Kentucky Higher Education Assistance Authority shall promote, support, and assist in the program created in KRS 158.798 by:

- (1) Establishing liaison and assisting in the coordination of any college-level scholarship programs established pursuant to KRS 158.798;
- (2) Educating higher education institutions, college students, and businesses as to the benefits, activities, and methods of participation in this program;
- (3) Providing scholarships, grants, loans, recognition, and work study assistance to college students in this program, when available, and pursuant to KRS 164.740 to 164.769.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 163, sec. 2, effective July 15, 1994. – Created 1992 Ky. Acts ch. 408, sec. 4, effective July 14, 1992.

164.753 Rules and regulations governing loans, loan guarantees, scholarships, grants, and work-study programs.

- (1) In the instance of loans, the rules and regulations adopted by the board may include, but not be limited to, those which:
 - (a) Are necessary to qualify the authority as an insured lender under the Higher Education Act of 1965, as amended;
 - (b) Require that loans be made only to those eligible students who are unable to secure comparable loans from private lenders; and
 - (c) Are necessary to qualify the authority as a lender under the Public Health Service Act, as amended.
- (2) In the instance of insured student loans and loan guarantees, the rules and regulations adopted by the board shall include, but not be limited to, those which are necessary to qualify the authority to insure loans under the federal act, as amended, and following such qualification to issue loan guarantees to participating lenders on any loans advanced by such lenders to eligible students attending or planning to attend any participating institution.
- (3) In the instance of scholarships, except scholarships provided pursuant to KRS 164.518, the rules and regulations adopted by the board shall include, but not be limited to, those which:
 - (a) Specify ways in which superior academic achievement or ability or special talents will be identified and measured;
 - (b) Ensure that the amount of scholarship to a student attending or planning to attend a participating institution will not exceed the student's total cost of attendance, or the maximum scholarship as established by the board, whichever is less;
 - (c) Restrict scholarships to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education;
 - (d) Ensure that scholarships are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;
 - (e) Ensure that scholarships are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled in a participating institution; and
 - (f) If eligibility for the scholarship is based on financial need, ensure, by such needs analysis as the authority may require, that the person is in need of the assistance in order to enroll in or complete an eligible program of study as defined by the board.
- (4) In the instance of grants, the rules and regulations adopted by the board shall include, but not be limited to, those which:
 - (a) Ensure that the amount of a grant to a student will not exceed the financial need of the student as determined in accordance with paragraph (e) of this

- subsection or the maximum grant as established by the board, whichever is less;
- (b) Restrict grants to persons who are classified as resident students under the rules and regulations of the Council on Postsecondary Education;
 - (c) Ensure that grants are awarded only to eligible students who have applied for such federal, state, or institutional student financial assistance programs as the authority may require;
 - (d) Ensure that grants are awarded only to eligible students who are planning to enroll, accepted for enrollment, or are enrolled in a participating institution; and
 - (e) Ensure, by such needs analysis as the authority may require, that grants be made only to students who have insufficient financial resources to enroll in or complete an eligible program of study as defined by the board.
- (5) Funds appropriated to the financial assistance program established by KRS 164.780 and 164.785 shall be administered by the board in accordance with the provisions of KRS 164.780 and 164.785.
- (6) In the instance of work-study payments, rules and regulations adopted by the board shall include, but not be limited to, those which require that:
- (a) The employment opportunity available for the student will not interfere with the student's normal progress toward a degree, diploma, or certificate;
 - (b) Contracts to promote increased employment opportunities for eligible students will not result in the displacement of employed workers or impair existing contracts for services; and
 - (c) The work-study payment will not exceed the financial need of the student or the maximum payment as established by the board, whichever is less.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 111, sec. 3, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 115, sec. 1, effective June 24, 2003; and ch. 180, sec. 3, effective June 24, 2003. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 121, effective May 30, 1997. -- Amended 1982 Ky. Acts ch. 403, sec. 5, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 251, sec. 1, effective July 15, 1980. -- Created 1978 Ky. Acts ch. 339, sec. 6, effective June 17, 1978.

164.7535 College access program grants.

Notwithstanding KRS 164.753(4)(d), the Kentucky Higher Education Assistance Authority may award college access program grants pursuant to KRS 164.753(4), to the extent funds are available for the purpose, to financially needy part-time and full-time undergraduate students, including students enrolled in a program of study designated as an equivalent undergraduate program of study by the Council on Postsecondary Education in an administrative regulation. Grants shall be awarded only to students enrolled or accepted for enrollment at participating institutions located within the Commonwealth. Grants under this section shall be awarded only for attendance in a program of study of at least two (2) academic years' duration. Grants under this section shall be awarded only to students enrolled or accepted for enrollment for attendance in a program of study that leads to a degree, except that grants shall be awarded to students enrolled or accepted for enrollment at publicly-operated vocational-technical institutions for attendance in a program of study that leads to a certificate, diploma, or degree. Awards to recipients attending participating institutions accredited by a regional accrediting association shall not exceed the prevailing amount charged for tuition at publicly-supported community and technical colleges in Kentucky, and awards to recipients attending other participating institutions shall not exceed the prevailing amount charged for tuition at publicly-operated vocational-technical institutions in Kentucky. The provisions of this section shall not limit the authority's capability to use funds appropriated for this purpose to match federal funds, make grant awards, adopt administrative regulations that conform to the requirements of federal laws and regulations for full participation in federally-funded student financial assistance programs.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 111, sec. 4, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 326, sec. 1, effective July 15, 2002. -- Created 1994 Ky. Acts ch. 36, sec. 1, effective July 15, 1994.

Legislative Research Commission Note (7/15/2002). The amendments made to this statute in 2002 Ky. Acts ch. 326, sec. 1, "apply to the 2001-2002 academic year and thereafter. An eligible student...for the 2001-2002 academic year shall have until October 1, 2002, to apply for a retroactive award." 2002 Ky. Acts ch. 326, sec. 3.

164.754 Education loan funds -- Administration account -- Creation.

There are hereby created, but not by way of limitation, for the purpose of carrying out the purposes of KRS 164.740 to 164.764 the following special funds:

- (1) A "scholarship fund" to which shall be credited all funds appropriated by the General Assembly to the authority for scholarships, and all funds received from all other sources for such purposes. All general funds appropriated to this account shall become a part of this account, and shall not lapse.
- (2) A "loan guarantee fund" account to which shall be credited all funds legally available to the authority and determined by the authority to be applied for the purpose of guaranteeing loans to eligible students together with all funds obtained from all other sources for such purposes. Such fund may be invested as provided by law for the investment of Kentucky Public Employee Retirement System funds and shall be assigned in trust to a corporate trustee for the security of the holders of insured student loans; provided, however, that income derived from investment of such fund shall be returned to the authority for deposit to the "administration" account of the authority.
- (3) An "administration" account to which shall be credited all funds appropriated by the General Assembly to the authority for administration and all other funds authorized for administrative costs. The authority may transfer from this account to the loan fund, grant fund or work-study fund any amounts accruing in this account not needed to cover the reasonable and necessary administrative expenses of the authority.
- (4) A "loan fund" to which shall be credited all funds appropriated by the General Assembly for loans and all funds received from all other sources for such purposes. All general funds appropriated to this account shall become a part of this revolving account and shall not lapse. These funds may be invested as provided for the investment of Kentucky Public Employee Retirement System funds or transferred to the loan guarantee fund. Interest income and other income from loans or other investments shall be transferred to the "administration" account of the authority.
- (5) A "grant fund" to which shall be credited all funds appropriated by the General Assembly for grants and all funds received from all other sources for such purposes.
- (6) A "work-study fund" to which shall be credited all funds appropriated by the General Assembly for work-study payments and all funds received from all other sources for such purposes.

Effective: July 15, 1982

History: Amended 1982 Ky. Acts ch. 403, sec. 6, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 339, sec. 7, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 215, sec. 3, effective March 29, 1976. -- Amended 1974 Ky. Acts ch. 135, sec. 6. -- Created 1966 Ky. Acts ch. 93, sec. 8.

164.756 Nonage not disqualifying for loan guarantee.

Any person otherwise qualifying for an education loan advanced or guaranteed or approved by the authority or a national direct student loan as authorized by the National Defense Education Act of 1958, as amended, or a federally guaranteed student loan as authorized by the Higher Education Act of 1965, as amended, shall not be disqualified by reason of his being under the age of eighteen (18) years; and any such person, for the purpose of applying for, receiving, and repaying such loan, notwithstanding the provisions of existing laws, shall be deemed to have full capacity to act and shall have all the rights, powers, privileges, and obligations of a person of full age with respect thereto.

History: Amended 1974 Ky. Acts ch. 135, sec. 7. -- Created 1966 Ky. Acts ch. 93, sec. 9.

164.757 District teacher certification loan fund.

- (1) For purposes of this section unless the context requires otherwise:
 - (a) "Critical shortage area" means an area in which there are insufficient numbers of fully certified staff in a particular subject, school, or geographic location;
 - (b) "Emergency certified teacher" means an individual who has not completed certification requirements but has been awarded a temporary certificate for a certification area in which no fully qualified teacher was available;
 - (c) "Qualified teacher" means a teacher who holds the appropriate certification for a position unless the superintendent of the employing local school district has documented evidence that the teacher is unsuitable for appointment;
 - (d) "Qualified teaching service" means teaching for at least seventy (70) days each semester or the equivalent in the certification area for which an individual received a forgivable loan in the Kentucky school district that recommended the individual for a loan or in another Kentucky private or public school district in the certification area for which an individual received a forgivable loan if no position was available in the recommending school district at the time when the individual completed his or her certification;
 - (e) "Semester" means a period which usually makes up one-half (1/2) of a school year or one-half (1/2) of a postsecondary institution's academic year; and
 - (f) "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester at a postsecondary education institution.
- (2) To increase the number of qualified teachers in local school districts and to reduce the number of emergency certified teachers, there is hereby created the district teacher certification loan fund in the State Treasury. The loans shall be used to provide forgivable loans to emergency certified personnel, fully certified teachers who are willing to seek additional certification in hard-to-fill or critical shortage areas, and paraprofessionals in local school districts to become fully certified teachers and to continue service within the local district.
- (3) The fund shall be administered by the Kentucky Higher Education Assistance Authority. The authority shall promulgate administrative regulations to specify the terms and conditions of the award, cancellation, and repayment of loans, including but not limited to the maximum amount that may be loaned per term and the maximum aggregate amount per applicant, the selection process, eligibility for renewal, the specific administrative procedures for utilizing the funds, and the rate of repayment.
- (4) To qualify for a forgivable loan, an applicant shall meet the following requirements:
 - (a) Be employed by a specific local district as a certified teacher, an emergency full-time or part-time teacher, an emergency substitute teacher, or a paraprofessional at the time he or she makes application for the loan;
 - (b) Be recommended by the superintendent as an individual that he or she would recommend to be employed in a teaching position for which the applicant is pursuing certification if the applicant fulfills all credentialing requirements;

- (c) Be endorsed by the school-based decision making council of the school in which he or she serves to receive a loan for the purposes of obtaining teacher certification in a specific certification area; except that the endorsement shall not be construed as a commitment of securing a position in the particular school in the future;
 - (d) Be admitted and enrolled as an undergraduate or graduate student in a Kentucky private or public postsecondary institution that offers a teacher certification program in the area for which he or she is seeking certification; and
 - (e) Be enrolled in a minimum of six (6) credit hours and not more than nine (9) credit hours during each semester of an academic term while employed concurrently in the school district and in not less than six (6) credit hours during the summer term. If a school district recommends an applicant for a loan under provisions of this section and grants a leave of absence to the employee to pursue certification, the employee shall be enrolled as a full-time undergraduate or graduate student as defined by the institution in which he or she is enrolled.
- (5) A participant in a local district alternative certification program as defined in KRS 161.048(2) may be eligible for a loan under provisions of this section to offset costs associated with the program. The authority shall establish by administrative regulation the specific requirements, notwithstanding requirements in subsection (4) of this section.
- (6) A loan shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.
- (7) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term for which a loan was received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate portion of the promissory notes.
- (8) If the recipient of a loan fails to complete the certification at a participating institution or fails to render qualified teaching service in any semester following certification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of loans under this subsection shall be liable for interest accruing from the dates on which the loans were disbursed.
- (9) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's certification, subject to the procedures set forth in KRS 161.120.
- (10) All moneys repaid to the authority under this section shall be added to the fund in this section. Any fund balance at the close of a fiscal year shall not lapse but shall

be carried forward to the next fiscal year and continuously appropriated for the purposes specified in this section.

- (11) The authority may execute appropriate contracts and promissory notes for administering this section.
- (12) If available funds are insufficient for all requested loans for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received loans. If funds are insufficient to make all requested renewal loans to eligible applicants, the authority shall reduce all loans to the extent necessary to provide loans to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, priority shall be given to loans for those applicants who are seeking certification in critical shortage areas.

Effective: April 2, 2002

History: Created 2002 Ky. Acts ch. 135, sec. 3, effective April 2, 2002.

164.758 Property of authority tax exempt, contributions to be deductible from income or franchise taxes.

- (1) All property and income of the Kentucky Higher Education Assistance Authority shall be exempt from all taxes and assessment of any nature whatsoever.
- (2) Notwithstanding the provisions of any general or special law or the provisions of any certificate of incorporation, charter, or other articles of organization, all domestic corporations or associations organized for the purpose of carrying on business in this state and any person or group is hereby authorized to make contributions to the Kentucky Higher Education Assistance Authority, and such contributions shall be allowed as deductions in computing the net taxable income of any such person, corporation, or association for the purposes of any income, franchise, or other tax of any nature whatsoever imposed by the state or any political subdivision thereof.

History: Created 1966 Ky. Acts ch. 93, sec. 10.

164.760 Supervision by Office of Financial Institutions -- Annual audit report.

The authority shall be subject to the supervision and examination of the Office of Financial Institutions (or any successor), but shall not be deemed to be a banking organization nor required to pay a fee for any such supervision or examination. The authority shall file an annual audited financial report with the Governor within ninety (90) days after the close of the fiscal year. The annual audit shall be made by an independent certified public accountant. The annual audited financial report shall include but may not be limited to the financial condition of the authority as of the end of the fiscal year and the revenues and expenditures for the fiscal year. The fiscal year shall be from July 1 through June 30.

History: Created 1966 Ky. Acts ch. 93, sec. 11.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

164.762 Duration of authority.

The authority and its corporate existence shall continue until terminated by law upon a finding that there no longer exists any need for such an authority; provided, however, that no such law shall take effect so long as the authority shall have any loan guarantees outstanding. Upon the dissolution of the authority or cessation of activities, all of the property and moneys of such authority shall become the property of the Commonwealth to be used for educational purposes.

History: Created 1966 Ky. Acts ch. 93, sec. 12.

164.764 Moneys of authority appropriated -- Not to lapse.

All moneys and property received by the authority for purposes prescribed in KRS 164.740 to 164.764 are hereby appropriated to the authority for use as prescribed herein. State moneys appropriated that are not spent at the end of the fiscal year shall not lapse.

History: Created 1966 Ky. Acts ch. 93, sec. 13.

164.766 Authority may provide supplemental loans for students.

The authority is authorized, but not by way of limitation, to enter into such agreements as may be necessary under the federal act to provide programs of supplemental loans for students, parent loans for undergraduate student loans, and consolidation loans in accordance with Section 428A, Section 428B, and Section 428C of the Federal Higher Education Act of 1965, as amended, and this chapter. When necessary to carry out the provisions of the Federal Higher Education Act of 1965 and this chapter, the terms "student," "student borrower," and "qualified student" shall include a parent borrower.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 256, sec. 2, effective July 15, 1988. -- Created 1982 Ky. Acts ch. 122, sec. 1, effective March 26, 1982.

164.767 Restrictions on financial aid to persons incarcerated in penal institutions.

- (1) No loan guarantee shall be approved, nor any loan, grant, scholarship, recognition award, work-study reimbursement, or other form of financial aid shall be disbursed, under programs authorized by KRS 164.740 to 164.785, to any student who is an inmate or who is incarcerated in a penal institution unless funds have first been provided to all other eligible students who have applied in accordance with the administrative regulations of the authority.
- (2) The Department of Corrections and any person or organization responsible for the supervision or operation of a penal institution shall cooperate with the authority and participating institutions in providing information to them to identify applicants who are inmates at or incarcerated in a penal institution.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 224, sec. 1, effective July 15, 1996.

164.769 Teacher scholarships for eligible persons agreeing to render qualified teaching service in Kentucky -- Cancellation or repayment of notes.

- (1) It is the intent of the General Assembly to establish a teacher scholarship program to assist highly qualified individuals to become certified Kentucky teachers and render teaching service in Kentucky schools.
- (2) For purposes of this section, the terms listed below shall have the following meanings:
 - (a) "Critical shortage area" means an understaffing of teachers in particular subject matters at the secondary level, in grade levels, or in geographic locations at the elementary and secondary level, as determined by the commissioner of education in consultation with the authority. The commissioner and the authority may use any source considered reliable including, but not limited to, local education agencies to identify the critical shortage areas.
 - (b) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to initial teacher certification.
 - (c) "Expected family contribution" means the amount that a student and his family are expected to contribute toward the cost of the student's education determined by applying methodology set forth in 20 U.S.C. sec. 1087 kk to 1087 vv.
 - (d) "Participating institution" means an institution of higher education located in Kentucky which offers an eligible program of study and has in force an agreement with the authority providing for administration of this program.
 - (e) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a public school of the Commonwealth or a private school certified pursuant to KRS 156.160(3), 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 a licensed physician, prevents that individual from teaching a major portion of each school day, shall be deemed to perform qualified teaching service by teaching the maximum time permitted by the attending physician.
 - (f) "Semester" means a period of about eighteen (18) weeks, which usually makes up one-half (1/2) of a school year or one-half (1/2) of a participating institution's academic year.
 - (g) "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester.
- (3) The authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9) of this section, award teacher scholarships to persons eligible under subsection (4) of this section, who initially demonstrate financial need in accordance with standards and criteria established by the authority or received teacher scholarships pursuant to this section prior to July 1, 1996. Each

teacher scholarship shall be evidenced by a promissory note that requires repayment or cancellation pursuant to subsection (6) of this section.

- (4) Kentucky residents who are United States citizens and enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution shall be eligible to apply for and be awarded teacher scholarships. Teacher scholarships shall first be awarded to highly qualified eligible students who meet standards and requirements established by the Education Professional Standards Board pursuant to KRS 161.028 for admission to a teacher education program at a participating institution or who received teacher scholarships pursuant to this section prior to July 1, 1996. If funds are not depleted after awarding teacher scholarships to students who meet the preceding criteria, then awards shall be made to any otherwise eligible students seeking admission to a teacher education program.
- (5) The authority shall establish, by administrative regulation, the maximum amount of scholarship to be awarded for each semester and summer term under this section, and shall prorate the amount awarded to any student enrolled less than full-time in accordance with paragraph (6)(a) of this section. The aggregate amount of scholarships awarded to an individual shall not exceed twelve thousand five hundred dollars (\$12,500) for undergraduate students and seven thousand five hundred dollars (\$7,500) for postbaccalaureate students, except that the aggregate amount of scholarships awarded to an individual who received teacher scholarships pursuant to this section prior to July 1, 1996, including any amount received pursuant to KRS 156.611, 156.613, 164.768, or 164.770, shall not exceed twenty thousand dollars (\$20,000), and the amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.
- (6)
 - (a) The authority shall disburse teacher scholarships to eligible students who agree to render qualified teaching service as certified teachers, and are unconditionally admitted and enrolled in an eligible program of study on a full-time basis, except that disbursements may be made to otherwise eligible students enrolled less than full-time in the semester or summer term in which the eligible program of study will be completed or otherwise eligible students having a disability defined by Title II of the Americans with Disabilities Act (42 U.S.C. secs. 12131 et seq.), who have been certified by a licensed physician to be unable to attend the eligible program of study full-time because of the disability. Teacher scholarships shall be disbursed to eligible students who received teacher scholarships pursuant to this section for recertification in a critical shortage area prior to July 1, 1996, who are enrolled in and continuing toward completion of their program of study, and who agree to render qualified teaching service as certified teachers.
 - (b) A teacher scholarship shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied,

- except that ineligibility for this reason may be waived by the authority for cause.
- (c) Recipients shall render one (1) semester of qualified teaching service for each semester or summer term of scholarship received, except that recipients who teach in a critical shortage area designated by the authority shall render one (1) semester of qualified teaching service as repayment for two (2) semesters or summer terms of scholarships received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate number of promissory notes.
 - (d) If the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualified teaching service in any semester following certification or recertification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of scholarships under this paragraph shall be liable for interest accruing from the dates on which the teacher scholarships were disbursed.
 - (e) Recipients who have outstanding loans or scholarships under KRS 156.611, 156.613, 164.768, or 164.770 respectively, and who render qualified teaching service, shall have their notes canceled in accordance with subsection (6)(c) of this section.
 - (f) The authority shall establish, by administrative regulation, the terms and conditions for the award, cancellation, and repayment of teacher scholarships including, but not limited to, the selection criteria, eligibility for renewal awards, amount of scholarship payments, deferments, the rate of repayment, and the interest rate thereon.
 - (g) 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.
- (7) A repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the teacher scholarship.
 - (8) Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.
 - (9) All moneys repaid to the authority under this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriations shall not lapse.
 - (10) The authority may execute appropriate contracts and promissory notes for administering this section.
 - (11) If available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to

eligible applicants who previously received teacher scholarships. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, initial applications shall be ranked according to regulatory selection criteria, which may include expected family contribution and application date, and awards shall be made to highly qualified applicants until funds are depleted.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 115, sec. 2, effective June 24, 2003. -- Amended 1998 Ky. Acts ch. 111, sec. 1, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 125, sec. 1, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 163, sec. 1, effective July 15, 1994.

**164.772 Default in repayment obligation under financial assistance program --
Professional licensing and certification -- Notification.**

- (1) For purposes of this section, "licensing agency" means an agency, board, or commission created by the state, including the Kentucky Supreme Court, that has the power to issue, renew, revoke, or suspend any occupational or professional certification, license, or registration required to engage in an occupation, profession, or trade.
- (2) The Kentucky Higher Education Assistance Authority shall declare that a person is in default if he or she is not meeting the repayment obligation under any financial assistance program in KRS Chapters 164 and 164A administered by the Kentucky Higher Education Assistance Authority.
- (3) A licensing agency may require that an applicant certify that he or she is not ineligible for an initial or renewed occupational or professional certification, license, or registration pursuant to subsection (2) of this section.
- (4) A licensing agency shall not issue or renew a license of any person who is in default of the repayment obligation under any financial assistance program in KRS Chapters 164 and 164A unless the authority has verified that:
 - (a) The borrower in default has entered a satisfactory repayment agreement on the defaulted loan;
 - (b) The financial obligation has been waived for cause or discharged by the authority; or
 - (c) The financial obligation has been satisfied or paid in full.
- (5) The authority shall notify the licensing agencies of the requirements of this section and enter into an agreement with the licensing agencies to establish procedures regarding the exchange of information on persons who have defaulted on repayment obligations, the form and frequency of exchanging information on borrowers in default, and notification to the borrowers in default of the repayment obligation.
- (6) A licensing agency or the authority shall notify, in writing, the borrower of a defaulted loan that failure to repay the obligation may result in the denial of the issuance of an initial or renewed license, or the suspension or revocation of a license to practice a profession, occupation, or trade in accordance with the rules and policies established by the licensing agency. The notice shall provide time frames in which the borrower shall respond to the notification and enter into a satisfactory agreement to repay the obligation. If the borrower fails to enter into a satisfactory agreement, the authority may notify the appropriate licensing agency that the license of the borrower in default is not subject to issuance or renewal or may be suspended or revoked in accordance with the administrative regulations of the licensing agency.
- (7) The authority shall promptly notify a licensing agency that a formerly reported borrower is no longer in default and has achieved satisfactory repayment status as determined by the authority, repaid the obligation in full, or the authority has taken other action including waiver of the obligation for cause or discharging the borrower of the responsibility for repayment. Upon receiving notice from the

authority, the licensing agency may issue an initial or renewed license or reinstate the certificate, license, or registration in accordance with administrative regulations adopted by the licensing agency.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 236, sec. 1, effective July 15, 2002.

164.774 Kentucky Lottery Corporation to receive list of persons in default of obligations under financial assistance programs -- Withholding of prize winnings.

The Kentucky Lottery Corporation and the authority shall develop a system to allow the Kentucky Lottery Corporation to receive on a periodic basis a list of persons declared in default of repayment obligations under financial assistance programs in KRS Chapters 164 and 164A. The Kentucky Lottery Corporation shall withhold from a person's prize winnings the amount of the defaulted loan and shall transfer the amount to the authority to credit the account of the person in default. Any amount remaining after the deduction of the loan amount shall be paid to the person.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 236, sec. 2, effective July 15, 2002.

164.780 Financial assistance to students attending private institutions.

- (1) As a result of the rising school population and the continuously rising cost of providing for the higher education of young people, there exists in the Commonwealth of Kentucky an urgent need to use all available educational resources wisely;
- (2) Within the Commonwealth, there exist accredited independent colleges and universities whose facilities are available for use in the public interest by providing additional space for students;
- (3) In the Commonwealth there are qualified residents who are willing to bear the major costs of their education by attending an independent college or university;
- (4) It intends to offer to qualified Kentucky residents who bear the major cost of attending accredited independent colleges and universities within the Commonwealth a tuition or fees grant as supplementary aid to students where need exists.

History: Created 1972 Ky. Acts ch. 114, sec. 1.

164.785 Qualifications for state assistance -- Calculation -- Adjustment for scholarship.

- (1) The State of Kentucky shall grant an amount as provided in KRS 164.780 and this section to any applicant who meets the following qualifications:
 - (a) Is a Kentucky resident as defined by the Kentucky Council on Postsecondary Education;
 - (b) Has been accepted by or is enrolled as a full-time student in a program of study leading to a postsecondary degree at a Kentucky independent college or university which is accredited by a regional accrediting association recognized by the United States Department of Education and whose institutional programs are not composed solely of a sectarian instruction. An otherwise eligible student having 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 may also qualify under this paragraph; and
 - (c) Has not previously attended college or university more than the maximum number of academic terms established by the authority in administrative regulations.
- (2) The amount of the tuition grant to be paid to a student each semester, or appropriate academic term, shall be determined by the Kentucky Higher Education Assistance Authority.
- (3) The maximum amount shall not exceed fifty percent (50%) of the average state appropriation per full-time equivalent student enrolled in all public institutions of higher education. Such tuition grants are to be calculated annually by the Kentucky Higher Education Assistance Authority.
- (4) The need of each applicant shall be determined by acceptable need analysis such as use of the free application for federal student aid in conjunction with Part E of the federal act, 20 U.S.C. secs. 1087kk through 1087vv, and such other analyses as the authority may determine, subject to the approval by the United States Secretary of Education.
- (5) An adjustment shall be made in the tuition grant of any student awarded a scholarship from any other source provided the combination of grants and awards exceeds the calculated need of the student.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 111, sec. 5, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 115, sec. 3, effective June 24, 2003; and ch. 180, sec. 2, effective June 24, 2003. -- Amended 1998 Ky. Acts ch. 317, sec. 1, effective July 15, 1998. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 122, effective May 30, 1997. -- Amended 1982 Ky. Acts ch. 403, sec. 7, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 155, sec. 104, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 215, sec. 4, effective March 29, 1976. -- Created 1972 Ky. Acts ch. 114, sec. 2.

- equivalency diploma or students transferring from another accredited degree granting institution; or
3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
- (b) Continues to commit financial resources to student financial assistance programs;
- (19) "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
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 117, sec. 1, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 115, sec. 4, effective June 24, 2003; and ch. 180, sec. 8, effective June 24, 2003. -- Amended 2002 Ky. Acts ch. 51, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 13, sec. 1, effective July 14, 2000; ch. 198, sec. 1, effective July 14, 2000; and ch. 382, sec. 11, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 575, sec. 2, effective July 15, 1998.

Legislative Research Commission Note (7/14/2000). This section was amended by 2000 Ky. Acts chs. 13, 198, and 382. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 198, which was last enacted by the General Assembly, prevails under KRS 446.250.

164.7871 Legislative declaration.

- (1) The General Assembly of the Commonwealth of Kentucky hereby declares that the best interest of the Commonwealth mandates that financial assistance be provided to ensure access of Kentucky citizens to public and private postsecondary education at the postsecondary educational institutions of the Commonwealth.
- (2) It is the intent and purpose of the General Assembly that the enactment of KRS 164.7871 to 164.7885 shall be construed as a long-term financial commitment to postsecondary education and that the funding provided by KRS 154A.130(3) and (4) shall not be diverted from the purposes described in KRS 164.7871 to 164.7885 and KRS 164.7889.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 575, sec. 1, effective July 15, 1998.

164.7874 Definitions for KRS 164.7871 to 164.7885.

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 authority;
- (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 at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or
 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; and
 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
 - (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating

institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

- (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "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;
- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled 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;
- (12) "High school" means any Kentucky public high school, and any 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;
- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
- (18) "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; or
3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
- (b) Continues to commit financial resources to student financial assistance programs;
- (19) "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
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 117, sec. 1, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 115, sec. 4, effective June 24, 2003; and ch. 180, sec. 8, effective June 24, 2003. -- Amended 2002 Ky. Acts ch. 51, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 13, sec. 1, effective July 14, 2000; ch. 198, sec. 1, effective July 14, 2000; and ch. 382, sec. 11, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 575, sec. 2, effective July 15, 1998.

Legislative Research Commission Note (7/14/2000). This section was amended by 2000 Ky. Acts chs. 13, 198, and 382. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 198, which was last enacted by the General Assembly, prevails under KRS 446.250.

164.7877 Kentucky educational excellence scholarship trust fund -- Funding sources, including lottery revenues.

- (1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Wallace G. Wilkinson Kentucky Educational Excellence 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 authority shall administer the Kentucky educational excellence scholarship trust fund.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 117, sec. 2, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 13, sec. 2, effective July 14, 2000; and ch. 198, sec. 2, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 575, sec. 3, effective July 15, 1998.

164.7879 Calculation of educational excellence scholarship awards -- Inclusion of certain out-of-state educational experience in grade point average calculation - - Supplemental award eligibility and calculation of amounts.

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
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	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
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	\$312.00		

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school 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 high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
- (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under

this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.

- (c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:
 - a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and
 - b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.
 - 2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
 - a. The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and
 - b. The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.
 - 3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.
- (3) (a) The authority shall commit to provide to each eligible high school 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 high school 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	Annual Bonus	ACT Score	Annual 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 high school 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 high school 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 high school 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 authority 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 authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 117, sec. 3, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 278, sec. 1, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 25, sec. 1, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 13, sec. 3, effective July 14, 2000; and ch. 198, sec. 3, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 575, sec. 4, effective July 15, 1998.

Legislative Research Commission Note (11/1/2006). Due to a manifest clerical or typographical error by the drafter of 2005 Ky. Acts ch. 117, the words "for submission" following "to the authority" in subsection (2)(b)2.b. of this statute were inadvertently deleted from the text as created in 2002 Ky. Acts ch. 278, sec. 1. Those words have been reinserted by the Reviser of Statutes under the authority of KRS 7.136.

164.7881 Eligibility for educational excellence scholarship and supplemental awards -- Time limits for receiving aid -- Adjustment of amounts and loss of award -- Extension of time limits -- Senator Jeff Green Scholars.

- (1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only 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 scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary 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 scholarship or a Kentucky educational excellence 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 scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- (4)
 - (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary 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 postsecondary student shall count as a full academic term, even if the award amount was reduced to

reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.

- (c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.
3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.
4. Any eligible postsecondary 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.
5. Any eligible postsecondary 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.
6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky

educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.

7. 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 eight (8) academic terms and 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 postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.
 - (7) Each eligible high school 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 "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 117, sec. 4, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 111, sec. 6, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 278, sec. 2, effective July 15 2002; and ch. 326, sec. 2, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 13, sec. 4, effective July 14, 2000; and ch. 198, sec. 4, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 575, sec. 5, effective July 15, 1998.

164.7881 Eligibility for educational excellence scholarship and supplemental awards -- Time limits for receiving aid -- Adjustment of amounts and loss of award -- Extension of time limits -- Senator Jeff Green Scholars.

- (1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only 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 scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary 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 scholarship or a Kentucky educational excellence 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 scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- (4)
 - (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary 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 postsecondary student shall count as a full academic term, even if the award amount was reduced to

reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.

- (c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.
3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.
4. Any eligible postsecondary 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.
5. Any eligible postsecondary 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.
6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky

educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.

7. 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 eight (8) academic terms and 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 postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.
 - (7) Each eligible high school 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 "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 117, sec. 4, effective June 20, 2005. -- Amended 2004 Ky. Acts ch. 111, sec. 6, effective July 13, 2004. -- Amended 2002 Ky. Acts ch. 278, sec. 2, effective July 15 2002; and ch. 326, sec. 2, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 13, sec. 4, effective July 14, 2000; and ch. 198, sec. 4, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 575, sec. 5, effective July 15, 1998.

164.7883 Use of scholarship and supplemental award at out-of-state institution.

An eligible student who has earned a Kentucky educational excellence scholarship, or the Kentucky educational excellence scholarship and the supplemental award, and who is enrolled in an out-of-state institution shall be eligible to receive the Kentucky educational excellence scholarship, or the Kentucky educational excellence scholarship and the supplemental award, if he or she is enrolled in a degree program in a field of study that is not available at any participating institution in the Commonwealth. The authority shall promulgate administrative regulations to establish procedures to designate an out-of-state institution as an approved participating institution as defined in KRS 164.7874 and to transfer to the out-of-state institution the amount of the scholarship and supplemental award earned by the eligible student.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 117, sec. 5, effective June 20, 2005. -- Created 2000 Ky. Acts ch. 382, sec. 12, effective July 14, 2000.

164.7885 Annual submission by high schools of list of eligible students -- Data in list -- Verification of eligibility -- Reduction of award -- Students ineligible for awards -- Authority for administrative regulations.

- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. The list need not contain the ACT score if the authority receives the ACT score directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.
- (2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.
- (3) For each eligible postsecondary 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 scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(c) 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, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;
 - (c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.
- (4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student

attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

- (5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).
- (6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:
 - (a) In default on any loan under Title IV of the federal act; or
 - (b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or
 - (c) Liable for overpayment of any grant or loan under Title IV of the federal act; or
 - (d) In default on any obligation to the authority under any programs administered by the authority 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 scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 117, sec. 6, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 51, sec. 2, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 13, sec. 5, effective July 14, 2000; and ch. 198, sec. 5, effective July 14, 2000. -- Created 1998 Ky. Acts ch. 575, sec. 6, effective July 15, 1998.

Legislative Research Commission Note (7/14/2000). This section was amended by 2000 Ky. Acts chs. 13 and 198. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts. ch. 198, which was last enacted by the General Assembly, prevails under KRS 446.250.

164.7889 Increase of maximum award grants.

Notwithstanding the provisions of KRS 164.7535 and 164.785 to the contrary, if sufficient funds are available, the authority shall do one (1) of the following:

- (1) Promulgate an administrative regulation to increase the maximum amount available under the grant programs to each student, up to the prevailing tuition rate charged by the regional public universities for full-time enrollment in an undergraduate program, but in no event shall a student receive more than the student's cost of education less expected family contribution and other anticipated student financial assistance;
- (2) Promulgate an administrative regulation to increase the average income level for qualification for the grant programs; or
- (3) Promulgate an administrative regulation that increases both the maximum amount available under the grant programs, and increases the average income level for qualification for the grant programs.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 575, sec. 8, effective July 15, 1998.

164.7911 Strategic Investment and Incentive Funding Program -- Trust funds -- Interest -- Appropriations.

- (1) There is established and created in the Council on Postsecondary Education a Strategic Investment and Incentive Funding Program for postsecondary education to consist of a system of strategic financial assistance awards to institutions, systems, agencies, and programs of postsecondary education to advance the goals of postsecondary education as stated in KRS 164.003(2). There are established in the State Treasury the following individual strategic investment and incentive trust funds:
 - (a) A research challenge trust fund;
 - (b) A regional university excellence trust fund;
 - (c) A technology initiative trust fund;
 - (d) A physical facilities trust fund;
 - (e) A postsecondary workforce development trust fund; and
 - (f) A student financial aid and advancement trust fund.
- (2) The funding program and the individual trust funds are created to provide financial assistance to the institutions, systems, agencies, and programs of postsecondary education each fiscal biennium. It is the intent of the General Assembly to make appropriations, including general fund appropriations, each fiscal biennium to each of the individual trust funds in the funding program in a form and manner consistent with the strategic agenda adopted by the Council on Postsecondary Education. Appropriations made to individual trust funds in the Strategic Investment and Incentive Funding Program shall not lapse at the end of a fiscal year but shall be carried forward in the respective trust fund accounts and shall be available for allotment for their respective purposes in the next fiscal year.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 7, effective May 30, 1997.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(5), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(6), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

164.7913 Sources of funding -- Investment of balances -- Capital projects -- Allotment of appropriations.

- (1) The individual trust funds in the Strategic Investment and Incentive Funding Program may receive state appropriations, gifts and grants from public and private sources, and federal funds. Any unallotted or unencumbered balances in the individual trust funds shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the appropriate trust fund accounts.
- (2) All capital projects funded through appropriations to one (1) of the individual trust funds shall adhere to the capital processes created in KRS Chapters 7A, 45, 45A, and 48.
- (3) Debt service appropriations for bond-supported capital projects funded through one (1) of the individual trust funds shall be made to the individual trust fund. Allotment of the appropriations shall be made to the university, Kentucky Community and Technical College System, or agency authorized to issue the bonds to finance the capital project.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 8, effective May 30, 1997.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(5), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(6), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

164.7915 Budget request -- Purpose of appropriations.

- (1) The Council on Postsecondary Education shall make a biennial budget request to the General Assembly and to the Governor with regard to:
 - (a) Specific funding amounts to be appropriated to each individual trust fund in the Strategic Investment and Incentive Funding Program;
 - (b) Specific funding amounts of all capital projects to be appropriated and funded from each individual trust fund in the Strategic Investment and Incentive Funding Program; and
 - (c) Funding to be appropriated to the base budgets of the institutions, systems, agencies, and programs.
- (2) Funds appropriated for the Strategic Investment and Incentive Funding Program shall be for the purpose of encouraging the activities of institutions, systems, agencies, and programs of postsecondary education in accordance with the strategic agenda adopted by the Council on Postsecondary Education.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 9, effective May 30, 1997.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(5), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(6), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

164.7917 Research challenge trust fund.

- (1)
 - (a) The research challenge trust fund created by KRS 164.7911 may include separate, subsidiary programs and related accounts, such as an Endowed Professorship Matching Program, an Endowed Chairs Matching Program, an External Research Grant Matching Program, a Graduate Assistant Program, a Junior Faculty Research Encouragement Program, or other programs and related accounts as determined through the biennial budget process for the Council on Postsecondary Education.
 - (b) Appropriations to the research challenge trust fund are to encourage research activities at the University of Kentucky and at the University of Louisville so that these institutions may achieve the goals established in KRS 164.003(2).
 - (c) Funds appropriated to the research challenge trust fund shall be apportioned two-thirds (2/3) to the University of Kentucky and one-third (1/3) to the University of Louisville.
- (2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The evaluation of all applications for support of specific faculty research projects, if such projects are included in the university's plan for use of research trust funds, shall be subject to review and ranking by an external panel of experts appointed according to guidelines and procedures approved by the council in consultation with the University of Kentucky and the University of Louisville. The University of Kentucky and the University of Louisville may apply to the council for financial assistance from the research challenge trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the research challenge trust fund.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 10, effective May 30, 1997.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(5), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(6), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

164.7919 Regional university excellence trust fund.

- (1) (a) The regional university excellence trust fund created by KRS 164.7911 shall consist of six (6) separate accounts: one (1) for Eastern Kentucky University; one (1) for Kentucky State University; one (1) for Morehead State University; one (1) for Murray State University; one (1) for Northern Kentucky University; and one (1) for Western Kentucky University.
 - (b) Funds appropriated to the regional university excellence trust fund or any subsidiary fund created by the Council on Postsecondary Education shall be apportioned to each of the regional universities proportional to their respective share of total general fund appropriations in each fiscal year, excluding debt service appropriations and specialized, noninstructional appropriations.
 - (c) The purpose of the regional university excellence trust fund is to provide financial assistance to encourage regional universities to develop at least one (1) nationally recognized program of distinction or at least one (1) nationally recognized applied research program consistent with the goals established in KRS 164.003(2).
- (2) The council shall develop the criteria and process for submission of an application under this section. Each university may apply to the council for financial assistance from the regional university excellence trust fund. The council shall determine the matching funds or internal reallocation requirements from the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the regional university excellence trust fund.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 11, effective May 30, 1997.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(5), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(6), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

164.7921 Technology initiative trust fund.

- (1)
 - (a) The technology initiative trust fund created by KRS 164.7911 is intended to support investments in electronic technology for postsecondary education throughout the Commonwealth to improve student learning.
 - (b) The Council on Postsecondary Education may establish separate subsidiary programs and related accounts to provide financial assistance to the postsecondary education system in acquiring the infrastructure necessary to acquire and develop electronic technology capacity; to encourage shared program delivery among libraries, institutions, systems, agencies, and programs; to provide funding for the Commonwealth Virtual University under KRS 164.800; and other programs consistent with the purposes of postsecondary education, the adopted strategic agenda, and the biennial budget process.
- (2) The council shall develop the criteria and process for submission of an application under this section. Any university and the Kentucky Community and Technical College System may apply to the council for financial assistance from the technology initiative trust fund. The council shall determine the matching funds or internal reallocation requirements for the applicants to qualify for funding. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the technology initiative trust fund.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 12, effective May 30, 1997.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(5), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(6), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2004-2006 Budget Reference. See State/Executive Branch Budget, 2005 Ky. Acts ch. 173, pt. V, J.2., at 3156; and State/Executive Branch Budget Memorandum, 2005 Ky. Acts ch. 170, at 1581 (Final Budget Memorandum, at 9).

164.7923 Physical facilities trust fund.

- (1) The physical facilities trust fund created by KRS 164.7911 is intended to provide sufficient financial assistance for unexpected contingencies for the construction, improvement, renovation, or expansion of the physical facilities of the postsecondary education system.
- (2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The physical facilities trust fund shall not replace the existing capital construction provisions and appropriation provisions of state law. Each university or the Kentucky Community and Technical College System may apply to the council for financial assistance from the physical facilities trust fund. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the physical facilities trust fund.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 13, effective May 30, 1997.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(5), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(6), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

164.7925 Postsecondary workforce development trust fund.

- (1) The postsecondary workforce development trust fund created by KRS 164.7911 is intended to provide financial assistance to further cooperative efforts among community colleges and technical institutions and for the acquisition of equipment and technology necessary to provide quality education programs.
- (2) The Council on Postsecondary Education shall develop the criteria and process for submission of an application under this section. The Kentucky Community and Technical College System may apply to the council for financial assistance from the postsecondary workforce development trust fund. Financial assistance shall be awarded for instructional programs ensuring that the community colleges and the technical institutions are able to continually acquire state-of-the-art equipment and technology needed to accomplish their missions.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 14, effective May 30, 1997.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(5), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(6), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

164.7927 Student financial aid and advancement trust fund.

- (1) (a) The student financial aid and advancement trust fund created by KRS 164.7911 is intended to provide financial assistance that encourages student access to postsecondary education including regionally accredited or nationally accredited technical institutions and colleges, community colleges, public universities, and regionally accredited private colleges and universities.
- (b) Appropriations shall be made to the trust fund and allotted to universities and the Kentucky Community and Technical College System or to the Kentucky Higher Education Assistance Authority as the Council on Postsecondary Education deems appropriate. Appropriations made to this trust fund may be used for the College Access Program, the Kentucky Tuition Grant Program, or other student financial aid programs as authorized by the General Assembly.
- (c) The council shall establish separate subsidiary programs and related accounts that are consistent with this section, the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.
- (2) (a) The Council on Postsecondary Education, in consultation with the Kentucky Higher Education Assistance Authority, shall determine the nature and purposes of budget requests for funding support to the student financial aid and advancement trust fund. The determination shall be based upon the financial assistance needs and requirements of students of postsecondary regionally accredited or nationally accredited private or public institutions.
- (b) A minimum of twenty-five percent (25%) of the student financial aid and advancement trust fund appropriation shall be allotted for the purpose of assisting individuals whose available income, determined in accordance with part F of Title IV of the Higher Education Act of 1965 as amended, is at or below one hundred percent (100%) of the federal income poverty guidelines. From the foregoing allotment, administrators of programs funded under this section may exercise discretion in accordance with 20 U.S.C. sec. 1087tt in awarding student financial assistance benefits on a case-by-case basis to individuals with disabilities, as defined by Title II of the Americans with Disabilities Act, 42 U.S.C. secs. 12131 et seq., whose available income is above the federal income poverty guidelines, whether or not the student qualifies for vocational rehabilitation services. Any funds remaining after all eligible students have been served under this paragraph may be used for other purposes as provided in this section.
- (3) The council shall develop the criteria and process for submission of an application under this section. Financial assistance that may be awarded by the council shall be consistent with the adopted strategic agenda, the biennial budget process, and the availability of any resources to the student financial aid and advancement trust fund.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 15, effective May 30, 1997.

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(5), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

2006-2008 Budget Reference. See State/Executive Branch Budget, 2006 Ky. Acts ch. 252, Pt. I, K.1.(6), at 1202; and State/Executive Branch Budget Memorandum, 2006 Ky. Acts ch. 257, at 2911 (Final Budget Memorandum, at 1226).

164.800 Commonwealth Virtual University -- Distance Learning Advisory Committee -- Role of council -- Institutions involved in program.

- (1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups.
- (2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.
- (3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to be used by the Commonwealth Virtual University to increase the availability of all postsecondary education programs throughout the state in the most efficient manner. The regional universities shall be the primary developers and deliverers of baccalaureate and master's degree programs to be delivered by the Commonwealth Virtual University; however, this does not preclude the University of Kentucky, the University of Louisville, or independent colleges from offering baccalaureate and master's degree programs or other course offerings, and community colleges and technical institutions from offering associate and technical degree programs or other courses through the Commonwealth Virtual University.
- (4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

Effective: May 30, 1997

History: Created 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 16, effective May 30, 1997.

164.948 Definitions for KRS 164.9481, 164.9483, and 164.9485.

As used in KRS 164.9481, 164.9483, and 164.9485, unless the context requires otherwise:

- (1) "Campus" means all property owned, managed, or controlled by an institution of postsecondary education including but not limited to academic buildings; student housing and recreational facilities; residential facilities operated by any officially recognized student organization; all sections of public property such as streets, sidewalks, and parking facilities immediately contiguous to campus buildings; and remote facilities leased for use as classroom space or student living.
- (2) "Campus security authority" means campus police, security officers, and any official at a postsecondary education institution who has significant responsibility for student and campus activities, including student discipline, student housing, student judicial affairs, and student life administration. Professional mental health, pastoral, and other licensed counselors when functioning in that capacity are not considered campus security authorities.
- (3) "Crime" means murder, manslaughter, reckless homicide, assault, menacing, wanton endangerment, terroristic threatening, stalking, forcible or nonforcible sex offenses, burglary, criminal damage to property, arson, theft, motor vehicle theft, robbery, weapons possession, and criminal attempt for any of the aforementioned crimes, and arrests for drug-related violations and liquor law violations.
- (4) "Immediately" means before the last fire unit has left the scene in order for the fire marshal's office to have the opportunity to speak with fire unit personnel before they leave the scene, but no later than two (2) hours following the time the fire or threat of fire is discovered. In the event of a minor fire to which the local fire officials are not called or do not respond, "immediately" means no later than one (1) hour following the discovery of the fire.
- (5) "Postsecondary education institution" means any Kentucky public four (4) year institution or two (2) year community college or technical college that grants a postsecondary education credential, and any private college or university that is licensed by the Council on Postsecondary Education under KRS 164.945 to 164.947.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 166, sec. 2, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 190, sec. 1, effective July 14, 2000.

164.9481 Duty of postsecondary institution to maintain crime log -- Duty to report to campus community on crimes and threats to safety or security of students and employees.

- (1) Crime log:
 - (a) Each postsecondary education institution shall make, keep, and maintain a daily log, written in a form approved by the Council on Postsecondary Education that can be easily understood, recording all crimes occurring on campus and reported to campus security authorities or local law enforcement agencies, including:
 1. The category of crime, and a description of the incident, date, time, and general location of each crime; and
 2. The disposition of the complaint if known, including referral for prosecution, institutional disciplinary proceedings, or investigation by another state agency. The disposition shall include a reference to an investigation or incident report number.
 - (b) All entries in the campus crime log shall be made available for public inspection within twenty-four (24) hours after the first report of an incident was made to any campus security authority or local law enforcement officials.
 1. If there is clear and convincing evidence that the release of the information would cause a suspect to flee or evade detection, would result in the destruction of evidence, or is prohibited from release by law, the information may be withheld until that damage is no longer likely to occur from the release of the information. Only the information that is absolutely necessary to withhold for the reasons stated in this paragraph may be withheld; all other information shall be released.
 2. In the event information is withheld under the provisions of paragraph (a) of this subsection, the crime shall still be reported and made available for public inspection.
 - (c) The campus crime log required by this section shall be readily accessible and open for public inspection at all times and shall be made available on campus computer networks to which students, employees, and other campus community members have access. Each semester the institution shall notify currently enrolled students, students applying to the institution, and employees of the availability of the campus crime log, where it can be accessed, and the exact electronic address on the computer network.
- (2) Special reports: In addition to the campus crime log, each postsecondary education institution shall make timely reports to the campus community on crimes reported to campus security authorities or local law enforcement authorities determined by those authorities to present a safety or security threat to students or employees.
 - (a) The reports shall be made available to students and employees within twenty-four (24) hours after an incident is first reported.
 - (b) The information shall be reported in a manner that will aid in the prevention of similar occurrences.

- (c) Institutions shall use computer networks and post the reports in each residential facility. The institution may also use flyers and other campus publications including newspapers, and other media.
- (d) Each institution shall adopt a policy to comply with this requirement and the policy shall be included in the postsecondary education institution's annual campus safety and security report published in compliance with KRS 164.9485.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 190, sec. 2, effective July 14, 2000.

164.9483 Jurisdiction and powers of state fire marshal -- Duty of campus security authorities to report fire or threat of fire to fire marshal.

- (1) Under the provisions of KRS Chapter 227, the state fire marshal shall have jurisdiction over all property in the state including property of public postsecondary education institutions and property of any private college or university that is licensed by the Council on Postsecondary Education as provided for by KRS 164.945 to 164.947, insofar as it is necessary for the administration and enforcement of any duty imposed on the office by law or administrative regulation and all laws, ordinances, regulations, and orders designed to protect the public from fire loss.
- (2) The state fire marshal or the fire marshal's employee or appointee may, without delay or advance notice and at all reasonable hours of the day or night, enter in or upon any property defined under KRS 227.200 located on the campus to make an inspection, investigation, or any other action necessary for the purpose of preventing fire loss or determining the origin of any fire.
- (3) No person shall obstruct, hinder, or delay such an officer in the performance of his or her duty.
- (4) Upon learning of a fire or threat of fire, a campus security authority designated by the college or university president to be responsible and liable for reporting shall immediately report each fire or threat of fire to the state fire marshal's office in Frankfort and the local deputies, assistants, and employees appointed under KRS 227.230. No fire scene located on a campus shall be cleared or cleaned without the express consent of the state fire marshal to do so after a representative of the fire marshal's office has had an opportunity to investigate the scene.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 166, sec. 3, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 190, sec. 3, effective July 14, 2000.

164.9485 Duty of postsecondary institution to submit statement of policies concerning campus safety and security.

Effective September 1, 2000, and each year thereafter, each postsecondary education institution shall submit to the Council on Postsecondary Education a statement of current policies concerning campus safety and security including, but not limited to:

- (1) The enforcement authority of security personnel, including their working relationship with state and local police agencies;
- (2) A description of programs designed to inform students and employees about the campus safety and security procedures and practices, how to report crimes, and how to prevent crimes; and
- (3) Statistics concerning the occurrence of crimes on campus during the most recent calendar year. The statistical data shall be reported by the number of occurrences based on:
 - (a) Location, broken down in the following classifications:
 1. Total number on campus:
 - a. Subtotal of occurrences indicating specifically those in dormitories or other residential facilities;
 - b. Subtotal of occurrences indicating specifically those in or on noncampus buildings or property; and
 2. On public property contiguous to the campus.
 - (b) Category of crime committed:
 1. As defined in KRS 164.948; and
 2. By category of prejudice, any crime reported to local police agencies or to a campus security authority, that manifests evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 190, sec. 4, effective July 14, 2000.

**164.9487 Duty of postsecondary institution to obtain statistics and crime reports --
Limitation of liability -- Reporting formats.**

- (1) In complying with the statistical and reporting requirements mandated in KRS 164.948 to 164.9489 and KRS 164.993, an institution shall make a reasonable, good-faith effort to obtain statistics and crime reports from outside agencies. An institution that makes such an effort is not responsible for an outside agency's failure to provide statistics or crime reports or for verifying the accuracy of the statistics or reports that are provided.
- (2) The Council on Postsecondary Education shall specify formats for reporting to ensure uniformity.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 190, sec. 5, effective July 14, 2000.

164.9489 Short title for KRS 164.948 to 164.9489 and KRS 164.993.

KRS 164.948 to 164.9489 and KRS 164.993 may be cited as the Michael Minger Act.

Effective: July 14, 2000

History: Created 2000 Ky. Acts ch. 190, sec. 7, effective July 14, 2000.

164.9490 Michael Minger/Priddy fire prevention fund.

Civil fines collected by the state fire marshal pursuant to KRS 164.993 shall be paid into the State Treasury and credited to a trust and agency fund known as the "Michael Minger/Priddy fire prevention fund." The funds shall be used by the fire marshal to educate students and personnel of postsecondary education institutions regarding the dangers of fire and methods of fire prevention, and to investigate the source of any fires or threats of fire that take place on the campus of a postsecondary education institution. No portion of this fund shall lapse into the general fund at the end of the year.

Effective: July 15, 2002

History: Created 2002 Ky. Acts ch. 166, sec. 1, effective July 15, 2002.

164.9492 Duty of public or private postsecondary institution to disclose existence or nonexistence of automatic fire suppression system in on-campus housing facility -- Exemption.

- (1) Any public or private institution of postsecondary education which operates or acts as agent for an on-campus housing facility within the Commonwealth shall disclose to any potential lessee as to whether the on-campus housing facility is or is not equipped with an automatic fire suppression system.
- (2) Except as provided in subsection (4) of this section, a two (2) part written disclosure statement separate from other rental documents, with typeface of no less than fourteen (14) points, shall be signed by both parties acknowledging that disclosure of the presence or lack of an automatic fire suppression system has been made.
- (3) The potential lessee shall be given a copy of the disclosure form and a copy shall be retained by the lessor for the duration of the rental agreement. At the end of each calendar year, institutions of postsecondary education shall make available, upon request from the state fire marshal or any local fire official, a copy of the disclosure form and an affidavit certifying that disclosure as to whether or not the premises were equipped with an automatic fire suppression system were provided as part of any rental agreement.
- (4) If the institution has an automatic fire suppression system in place and properly functioning at every on-campus housing facility under the control of the institution, the institution shall be exempt from this section.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 110, sec. 1, effective July 13, 2004.

Legislative Research Commission Note (7/13/2004). Although 2004 Ky. Acts ch. 110, sec. 1, indicated that this section was to be created as a new section on KRS 383.010 to 383.285, the statute has been codified in KRS Chapter 164 due to the subject matter of the section and in accordance with KRS 7.136(1)(a).

164.9495 Disabled student given priority for first-floor housing -- On-campus or off-campus alternative -- Notification to safety and emergency personnel.

- (1) A postsecondary education institution as defined in KRS 164.948 shall provide priority for first-floor housing to any student who informs the institution of a disability, or a sensory, cognitive, or neurological deficit or impairment, or a learning disorder, minimal brain dysfunction, dyslexia, pervasive developmental disorder, autism, or Asperger syndrome. As used in this section, "disability" has the same meaning as in KRS 344.010.
- (2) If the postsecondary education institution does not have available first-floor housing for a student as provided under subsection (1) of this section, the postsecondary education institution shall allow the student to seek alternative on-campus or off-campus housing. The postsecondary education institution shall maintain a record of any on-campus housing assignment for that student and shall alert appropriate safety and emergency personnel of the location of the student.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 119, sec. 3, effective July 13, 2004.

164.950 Safety and security departments and officers authorized.

The governing board of each public institution of higher education is authorized to establish a safety and security department and appoint safety and security officers and other employees for the university, college, or other institution of public higher education for which it is responsible, to prescribe distinctive uniforms for the safety and security officers of said institution, and to designate and operate emergency vehicles. Safety and security officers so appointed shall take an appropriate oath of office, in the form and manner consistent with the Constitution of Kentucky, and shall serve at the pleasure of the governing board.

History: Created 1972 Ky. Acts ch. 367, sec. 1.

164.955 Safety and security officers -- Powers and duties.

- (1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers including the power to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing governing board of the respective institution employing them. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:
 - (a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions, and to protect all persons and property located thereon from injury, harm and damage; and
 - (b) To enforce, and to assist the officials of their respective institutions in the enforcement of, the lawful rules and regulations of said institution, and to assist and cooperate with other law enforcement agencies and officers. Provided, however, that such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective institutions, including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the institution owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.
- (2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:
 - (a) When in hot pursuit of an actual or suspected violator of the law; or
 - (b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section; or
 - (c) When requested to act by the chief of police of the city or county in which the institution's property is located; or
 - (d) When requested to act by the sheriff of the county in which the institution's property is located; or
 - (e) When requested to act by the commissioner of the Department of Kentucky State Police; or
 - (f) When requested to act by the authorized delegates of those persons or agencies listed in paragraph (c), (d) or (e) above; or
 - (g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties; or
 - (h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.

- (3) Safety and security officers appointed pursuant to KRS 164.950 to 164.980 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the university. Where desirable and at the discretion of the institution of higher education's police officials, the university safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.
- (4) Safety and security departments created and operated by the governing boards of public institutions of higher education shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.
- (5) Nothing in KRS 164.950 to 164.980 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, sheriff, constable, or other peace officer either on the property of an institution of higher education or otherwise.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 85, sec. 174, effective June 26, 2007. -- Created 1972 Ky. Acts ch. 367, sec. 2.

164.960 Safety and security officers -- Qualifications.

All persons appointed as safety and security officers pursuant to KRS 164.950 to 164.980 shall, at the time of their employment, be:

- (1) Not less than eighteen (18) years of age; and
- (2) Comply with the requirements of KRS 61.300, other than the age requirement; and
- (3) Shall possess whatever other requirements as may be set by the governing board of the institution of public higher education which employs them.

History: Created 1972 Ky. Acts ch. 367, sec. 3.

164.965 Safety and security officers -- Promotion and compensation.

The governing board of each institution of public higher education may provide for the appointment or promotion to the ranks and grades and positions of the department such officers and civilians as are considered by the board to be necessary for the efficient administration of the department. Such officers and civilians shall receive such compensation as shall be fixed and paid by the board.

History: Created 1972 Ky. Acts ch. 367, sec. 4.

164.970 Safety and security officers -- Use of vehicles.

- (1) Vehicles used for emergency purposes by the safety and security department of a public institution of higher education shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.
- (2) Safety and security officers directly employed by the governing board of public institutions of higher education pursuant to KRS 164.950 to 164.980 shall have the rights accorded to peace officers in cities of the first four (4) classes provided under KRS 527.020, provided the governing board of the public institution of higher education so authorized in writing.
- (3) Safety and security departments of public institutions of higher education may install, maintain, and operate radio systems on police or other radio frequencies under licenses issued by the Federal Communications Commission, or its successor; KRS 432.570 to the contrary notwithstanding.
- (4) Safety and security departments of public institutions of higher education shall comply with the requirements of the Kentucky Revised Statutes and the Justice and Public Safety Cabinet with regard to reporting of criminal and other statistics.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 85, sec. 173, effective June 26, 2007. -- Created 1972 Ky. Acts ch. 367, sec. 5.

164.975 Regulation of the use of educational property.

- (1) The governing boards of public institutions of higher education, each having the power and authority to govern and control the method and purpose of use of property owned or occupied by their respective institution, including travel over such property, is each hereby confirmed in its authority to regulate the traffic and parking of motor vehicles, bicycles or other vehicles as well as the traffic of pedestrians on, over and across the streets, roads, paths and grounds of real property owned, used or occupied by such institution. Such regulations applicable to traffic and parking may include, but not be limited to, the following provisions:
 - (a) Provisions governing the registration, speed, operation, parking and times, places and manner of use of motor vehicles, bicycles and other vehicles.
 - (b) Provisions prescribing penalties for the violation of such regulations, which penalties may include the imposition of reasonable charges, the removing and impounding (at the expense of the violator) of vehicles which are operated or parked in violation of such regulations, and the denial of permission to operate vehicles on the property of such institution.
 - (c) Provisions establishing reasonable charges and fees for the registration of vehicles and for the use of parking spaces or facilities owned or occupied by such institution. Provided, however, that nothing herein contained shall be deemed to limit or restrict the powers of any other governmental authority having jurisdiction over public streets, roads, alleys or ways.
- (2) Motor vehicle moving violations of regulations issued under this section shall be deemed violations of the appropriate equivalent sections of the motor vehicle laws of the Commonwealth and may be prosecuted in the courts having territorial jurisdiction over the physical location of the offense.

History: Created 1972 Ky. Acts ch. 367, sec. 6.

164.980 Impersonation of safety or security officer prohibited.

No person shall falsely represent himself to be a safety and security officer, agent or employee of a safety and security department of a public institution of higher education and in such assumed character, arrest, or detain, or search, or question, in any manner the person or property of any person, nor shall any person without the authority of the governing board of the public institution of higher education wear its official uniform, insignia, badge, or identification of the department.

History: Created 1972 Ky. Acts ch. 367, sec. 7(1).

164.990 Penalties.

- (1) Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 is guilty of a Class D felony, and in addition thereto shall forfeit to the state all equipment used in committing the offense for which such person is convicted.
- (2) Any person who violates the provisions of KRS 164.980 shall be guilty of a Class B misdemeanor.
- (3) Any person who violates KRS 164.377 shall be guilty of a Class A misdemeanor.
- (4) Any person who knowingly violates the provisions of KRS 164.376, or who knowingly induces another, directly or indirectly, to violate the provisions of KRS 164.376, shall be fined not less than five hundred dollars (\$500), nor more than one thousand five hundred dollars (\$1,500).

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 191, sec. 2, effective July 14, 2000. -- Amended 1992 Ky. Acts ch. 463, sec. 19, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 120, sec. 1, effective March 30, 1988; and ch. 148, sec. 2, effective July 15, 1988. -- Amended 1974 Ky. Acts ch. 406, sec. 306, effective January 1, 1975. -- Amended 1972 Ky. Acts ch. 367, sec. 7(2). -- Amended 1962 Ky. Acts ch. 278, sec. 8. -- Created 1960 Ky. Acts ch. 92, sec. 6.

164.991 Penalty.

Any person who deliberately violates the provisions of KRS 164.283, upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25), nor more than one hundred dollars (\$100), and/or imprisonment in the county jail for up to thirty (30) days.

History: Created 1970 Ky. Acts ch. 51, sec. 1, (10).

164.992 Penalties for KRS 164.947.

- (1) Any college that violates the provisions of KRS 164.947(3) shall be fined not less than one hundred dollars (\$100).
- (2) Each day that a college violates the provisions of KRS 164.947(3) shall be deemed a separate offense.

Effective: July 13, 1990

History: Created 1990 Ky. Acts ch. 519, sec. 1, effective July 13, 1990.

164.993 Penalties for violation of KRS 164.9481 or 164.9483.

- (1) Any person, including campus personnel, who knowingly violates the provisions of KRS 164.9481 and 164.9483, or who knowingly induces another, directly or indirectly, to violate the provisions of those sections, shall be fined not less than five hundred dollars (\$500), nor more than one thousand five hundred dollars (\$1,500), or imprisoned in the county jail for up to thirty (30) days, or both.
- (2) In addition to the penalties required in subsection (1) of this section, any person or any postsecondary education institution who violates the provisions of KRS 164.9483 shall be liable for a civil penalty of not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000) per violation for each day the violation occurs or remains in effect. The state fire marshal shall have the authority, after investigation, to assess and collect the fines. Any person or postsecondary education institution aggrieved by an assessment of a civil fine may appeal to the Franklin Circuit Court.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 166, sec. 4, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 190, sec. 6, effective July 14, 2000.

Appendix C
to Section I of the
Policies and Procedures of the Board of Regents

pertinent sections of

Kentucky Revised Statutes

“Higher Education Finance”

164A.010 Findings -- Determinations -- Intent.

The General Assembly of the Commonwealth of Kentucky hereby makes the following findings and determinations and promulgates the following statements of legislative intent:

- (1) That the attainment by every citizen of his or her educational goals will inure to the general welfare, well-being, and productivity of the Commonwealth. Accordingly, it is hereby determined and declared that providing higher education assistance to needy, qualified students is in the best interest of the Commonwealth and constitutes the implementation of a public purpose of statewide import of the Commonwealth.
- (2) Pursuant to KRS 164.740 to 164.764, the Kentucky Higher Education Assistance Authority has heretofore been created and has rendered valuable and material services to the Commonwealth and its citizens in the effectuation of the public policy stated in the foregoing subsection. Pursuant to said cited statutory authority, the Kentucky Higher Education Assistance Authority is legally authorized to make and to guarantee student loans, and is eligible to reinsure student loans with the United States of America pursuant to the Higher Education Act of 1965, as amended. The United States Secretary of Education has been authorized to enter into insurance or reinsurance agreements with the Kentucky Higher Education Assistance Authority, and other lending institutions in the Commonwealth pursuant to which insured student loans have been made possible for the benefit, welfare, and well-being and for the future benefit of citizens, residents and inhabitants of the Commonwealth.
- (3) The 1976 amendments (P.L. 94-482) to the Higher Education Act of 1965 (P.L. 89-329), provided incentives for states to establish and implement programs of student loan insurance by providing federal reinsurance of any losses due to the death, disability, bankruptcy or default of the borrower. The education amendments of 1976 (P.L. 94-482) offered further incentives to states to establish insured student loan programs including the payment of certain administrative expenses to a state agency, the payment of interest on student loans directly by the federal government while qualified students are pursuing a course of education at an eligible institution, the payment of special allowances to holders of state insured student loans and the reimbursement of costs of collection to state student loan insurance agencies in the event of defaults. The Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66) further amended the Higher Education Act of 1965 by reducing the rate of insurance payable to holders of insured student loans first disbursed on or after October 1, 1993, to ninety-eight percent (98%) of losses resulting from the default of the borrower, and reduced the federal reimbursements to the guarantee agency to a maximum of ninety-eight percent (98%) of the principal and interest amount on defaulted insured student loans, with further reductions to eighty-eight percent (88%) and seventy-eight percent (78%) when the amount of reinsurance claims paid in any one (1) year exceeds five percent (5%) and nine percent (9%), respectively, of insured student loan amounts in repayment as of the end of the preceding federal fiscal year.

- (4) The General Assembly hereby determines and declares that in order to continue the Insured Student Loan Program in Kentucky, to enable eligible lenders including banks and trust companies and the Kentucky Higher Education Assistance Authority to be able to continue to make student loans available to qualified students and to ensure that the Commonwealth of Kentucky shall not lose the benefits of the Insured Student Loan Program, it is necessary that there be created a body corporate and politic to act as a financing agency, and to assure that a secondary market for insured student loans be created and maintained. The actions and duties of such body corporate and politic to be carried out in such manner so as to assure that any student loans acquired by such entity have the benefit of state insurance with federal reinsurance to the end that the assets of the Commonwealth be not committed to such purposes.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 350, sec. 5, effective July 15, 1996. -- Created 1978 Ky. Acts ch. 387, sec. 1, effective June 17, 1978.

164A.011 Plans for organization and operation of corporation and of Kentucky Higher Education Assistance Authority -- Code of ethics.

- (1) By January 1, 1997, the board of the Kentucky Higher Education Assistance Authority and the board of the Kentucky Higher Education Student Loan Corporation shall prepare and submit to the Governor, the Legislative Research Commission, and the Finance and Administration Cabinet a plan for the future organization and operation of the respective agencies. The plans shall be prepared according to the preprivatization guide established by the Privatization Commission and shall include, but not be limited to, detailed information on the following:
 - (a) The new or expanded businesses or services the boards may want to engage in, and the financing thereof, or which may be available to enhance the boards' role in the student loan business;
 - (b) The new or expanded businesses or services the boards may want to engage in, and the financing thereof, or which may be available to enhance the boards' role in the financial market;
 - (c) A proposed and transitional personnel system to meet the needs of any proposed organization and operations of the authority or corporation that shall include but not be limited to:
 1. A salary and compensation plan; and
 2. Personnel benefits including health insurance coverage, deferred compensation opportunities, workers' compensation, life insurance coverage, a retirement plan and merit system rights; and
 - (d) The process to be used by the authority and the corporation in the development and implementation of their respective operating budgets, including the methodology for the transfer of funds between the entities and the involvement of the executive branch and the General Assembly in their budget process.
- (2) The plan shall include a proposed code of ethics to apply to all members of the boards, officers, and employees of the respective agencies. The code of ethics adopted shall include, but not be limited to, provisions that set forth:
 - (a) Standards of conduct;
 - (b) Requirements for filing and maintaining annual financial disclosure statements, which shall be open to public inspection;
 - (c) A policy on the employment of members of the families of members of the boards, officers, and employees;
 - (d) The designation of a person or group responsible for enforcement of the code of ethics, maintenance of financial disclosure records, and receipt and investigation of complaints of violation of the code of ethics; and
 - (e) The penalties for violation of the code of ethics.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 350, sec. 2, effective July 15, 1996.

164A.020 Definitions.

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

- (1) "Board" means the board of directors of the corporation.
- (2) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation pursuant to this chapter.
- (3) "Corporation" means the Kentucky Higher Education Student Loan Corporation, an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky created to perform essential governmental services.
- (4) "Eligible institution" means any educational institution described as an eligible institution in the federal act which has, if required by the guarantee agency, a contract in force with the guarantee agency pursuant to the federal act and this chapter.
- (5) "Eligible lender" means the Kentucky Higher Education Assistance Authority, a de jure political subdivision of the Commonwealth of Kentucky and the corporation and all other entities described as eligible lenders in the federal act which have in force a contract with the guarantee agency providing for loan guarantees to be issued by the guarantee agency to the subject lender under the federal act and this chapter.
- (6) "Federal act" means the Higher Education Act of 1965, as from time to time amended, codified as 20 U.S.C. secs. 1001 et seq.
- (7) "Guarantee agency" means the Kentucky Higher Education Assistance Authority duly organized and existing pursuant to the statutory laws of the Commonwealth of Kentucky or any agency authorized as a guarantor pursuant to the federal act.
- (8) "Qualified student" means a student who qualifies for an insured student loan under the federal act.
- (9) "Insured student loan" means a loan to a qualified student on which the payment of principal and interest is at least ninety-five percent (95%) insured by the guarantee agency and reinsured by the Secretary of Education of the United States in accordance with the requirements of the federal act, or at least ninety-five percent (95%) insured as to principal amount by the United States under the federal act or the Health Professions Educational Assistance Act of 1976, codified as 42 U.S.C. secs. 294 et seq. as from time to time amended. As used in connection with the purchase, making, or acquisition of insured student loans by the corporation, the term insured student loan shall further mean and refer to any contingent interest, security interest, pledge, commitment, chose in action, or other property interest in any such loan.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 350, sec. 6, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 35, sec. 1, effective March 8, 1994; and ch. 53, sec. 2, effective July 15, 1994. -- Amended 1988 Ky. Acts ch. 272, sec. 1, effective July 15, 1988. -- Created 1978 Ky. Acts ch. 387, sec. 2, effective June 17, 1978.

164A.030 Corporation is de jure municipal corporation and political subdivision.

The General Assembly of the Commonwealth of Kentucky hereby finds and determines that in carrying out its functions, powers and duties as prescribed in this chapter, the corporation will be performing vital public purposes in improving and promoting the public welfare and prosperity of the people of the Commonwealth of Kentucky by promoting the availability of higher educational opportunities. Accordingly, the corporation is constituted as and shall be an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 3, effective June 17, 1978.

164A.040 Purpose.

- (1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that as a result of the adoption of the education amendments of 1976 by the Congress of the United States, being Public Law 94-482, it is essential, in order that the Commonwealth of Kentucky may continue to provide adequate educational opportunities to all of its citizens and residents, that the corporation be created and empowered to finance student loan operations in Kentucky by the issuance of its bonds and notes for the purpose of making and purchasing insured student loans.
- (2) The General Assembly hereby finds and declares further that in the performance of its duties, powers and responsibilities, the corporation will be performing essential public and governmental functions and shall be and constitute an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky for the purpose of promoting higher educational opportunities through a program of financing, making and purchasing of insured student loans.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 4, effective June 17, 1978.

164A.050 Kentucky Higher Education Student Loan Corporation -- Establishment -- Organization -- Terms -- Duties -- Removal -- Expenses -- Relationship with other educational entities.

- (1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky Higher Education Student Loan Corporation.
- (2) The Kentucky Higher Education Student Loan Corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making, and purchasing of insured student loans.
- (3)
 - (a) Subject to paragraph (b) of this subsection, the corporation shall be governed by a board of directors consisting of:
 1. Eight (8) voting members chosen from the general public residing in the Commonwealth of Kentucky; and
 2. Seven (7) voting members of the board of directors of the Kentucky Higher Education Assistance Authority appointed by the Governor pursuant to KRS 164.746(1)(a)1., who shall serve terms of office on the corporation board of directors coextensive with their respective terms of office on the Kentucky Higher Education Assistance Authority board of directors.
 - (b) Upon resignation or expiration of the term of an appointed member of the board of the corporation and the Kentucky Higher Education Assistance Authority, that member's position shall be abolished to reduce the combined number of appointed members of the boards of the corporation and the Kentucky Higher Education Assistance Authority to ten (10) members.
 - (c) In addition, the president of the Council on Postsecondary Education, the secretary of the Finance and Administration Cabinet, the president of the Association of Independent Kentucky Colleges and Universities, the State Treasurer, and the commissioner of education, or their designees who shall be another official of the same cabinet or agency, shall serve as ex officio voting members.
- (4) The Governor shall appoint directors according to subsection (3)(a)1. of this section from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 to take office and to exercise all powers thereof immediately. The terms shall be staggered and shall be for a period of four (4) years each. Each director shall serve for the appointed term and, except as provided in subsection (3)(b) of this section, shall serve until a successor has been appointed and has duly qualified.

- (5) Except as provided in subsection (3)(b) of this section, in the event of a vacancy, the Governor may appoint a replacement director from nominees submitted by the Governor's Higher Education Nominating Committee under KRS 164.005 who shall hold office during the remainder of the term so vacated.
- (6) The Governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.
- (7) The board shall elect from its voting membership a chair, chair-elect, and secretary-treasurer. The executive director of the Kentucky Higher Education Assistance Authority shall serve as executive director of the corporation.
- (8) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary-treasurer of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary-treasurer may copy all minutes and other records and documents of the corporation and give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.
- (9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.
- (10) Official actions may be taken by the corporation at meetings duly called by the chair upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors. In lieu of personal attendance by members of the board of directors at the same location, the board of directors may conduct meetings by teleconference or other available technological means suitable for conducting its business. Meetings of the board shall be open and accessible to the public in accordance with KRS 61.805 to 61.850, and any alternate method of conducting a meeting in lieu of personal attendance shall ensure public access.
- (11) Directors, except officers or employees of the state, shall receive one hundred dollars (\$100) compensation per day for their services and shall be entitled to payment of any reasonable and necessary expense actually incurred in discharging their duties under this chapter.
- (12) Recognizing that the corporation and the Kentucky Higher Education Assistance Authority are governed by identical boards of directors and managed by a common executive director and otherwise share staff functions, the two (2) organizations shall provide technical, clerical, and administrative assistance to each other and for the Kentucky Educational Savings Plan Trust and the Commonwealth postsecondary education prepaid tuition trust fund, together with necessary office space and personnel, and shall assist each other in all ways by the performance of

any and all actions which may be useful or beneficial in the performance of their public functions.

- (13) The corporation shall enter into contracts with the Kentucky Higher Education Assistance Authority, the Kentucky Educational Savings Plan Trust, and the Commonwealth postsecondary education prepaid tuition trust fund as may be proper and appropriate in respect to services which may include but not be limited to the servicing and collection of insured student loans or to facilitate the common administration, operation, and management of the contracting entities.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 111, sec. 7, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 180, sec. 10, effective June 24, 2003. -- Amended 2002 Ky. Acts ch. 253, sec. 2, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 152, sec. 1, effective July 15, 1998; and ch. 282, sec. 1, effective July 15, 1998. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 135, effective May 30, 1997. -- Amended 1994 Ky. Acts ch. 91, sec. 5, effective March 22, 1994; and ch. 447, sec. 5, effective April 11, 1994. -- Amended 1988 Ky. Acts ch. 271, sec. 1, effective July 15, 1988. -- Created 1978 Ky. Acts ch. 387, sec. 5, effective June 17, 1978.

164A.060 Powers of corporation.

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the following powers:

- (1) To make or participate in the making of insured student loans.
- (2) To purchase or participate in the purchase of insured student loans, which purchase may be from eligible lenders.
- (3) To sell or participate in the sale of insured student loans, which sale may be to eligible lenders or to the student loan marketing association.
- (4) To collect and pay reasonable fees and charges in connection with making, purchasing, and servicing or causing to be made, purchased, or serviced insured student loans by the corporation, including payment to the guarantee agency for services performed for the corporation.
- (5) To procure insurance in respect of all student loans made or purchased by the corporation.
- (6) To consent whenever it deems it necessary or desirable in the fulfillment of its corporate purposes to the modification of the rate of interest, time of payment of any installment of principal or interest or any other terms of any insured student loan to which the corporation is a party; provided, that no such consent shall be made or given if the effect of same would be to obviate insurance coverage in respect of any student loan.
- (7) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on its obligations for a period not exceeding two (2) years from their date, consulting, advisory and legal fees, and such other expenses as are necessary or incident to any such borrowing.
- (8) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes.
- (9) To make, execute, and effectuate any and all agreements or other documents with any federal or state agency or any person, corporation, association, partnership, or other organization or entity and perform other acts necessary or appropriate to accomplish effectively the purposes of this chapter.
- (10) To accept appropriations, loans, grants, revenue sharing, devises, gifts, bequests and federal grants, and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.
- (11) To sue and be sued in its own name and to plead and be impleaded.
- (12) To maintain an office in the city of Frankfort, Kentucky, in conjunction with or in close proximity to the Kentucky Higher Education Assistance Authority and such other regional offices as may be required.
- (13) To adopt an official seal and alter the same at pleasure.
- (14) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties.

- (15) To employ fiscal consultants, attorneys, counselors, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation.
- (16) To invest any funds held in reserves or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the United States or its agencies and instrumentalities; provided, however, that the return on such investments shall not be violative of any laws and regulations regarding investment of the proceeds of any federal tax-exempt bond issue.
- (17) To issue its bonds and notes for the purpose of carrying out its corporate powers and duties as set forth in this chapter.
- (18) To service and collect educational loans for other lenders, holders, and educational institutions.
- (19) Except where specifically prohibited by law, to secure data from any other Commonwealth of Kentucky agency or instrumentality or from any other source in furtherance of any purposes of the corporation related to any program or function administered by the corporation.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 111, sec. 8, effective July 13, 2004. -- Amended 1996 Ky. Acts ch. 350, sec. 7, effective July 15, 1996. -- Created 1978 Ky. Acts ch. 387, sec. 6, effective June 17, 1978.

164A.065 Powers of corporation as to supplemental student loans.

The corporation is hereby authorized to exercise all powers granted by this chapter in furtherance of programs of supplemental loans for students, parent loans for undergraduate student loans, and consolidation loans pursuant to Section 428A, Section 428B, and Section 428C of the Federal Higher Education Act of 1965, as amended, and health education assistance loans pursuant to the Health Professions Educational Assistance Act of 1976, Public Law 94-484, as amended. Any reference in this chapter, without limitation, to student loan or insured student loan shall be deemed to include a loan to parents authorized by Section 428B of the Federal Higher Education Act of 1965, as amended, and health education assistance loan.

Effective: July 15, 1988

History: Amended 1988 Ky. Acts ch. 256, sec. 3, effective July 15, 1988. -- Created 1982 Ky. Acts ch. 179, sec. 2, effective April 1, 1982.

164A.070 Status of obligations issued by corporation.

- (1) Obligations issued under the provisions of this chapter shall not be deemed to constitute a debt, liability or obligation of the state or a pledge of the faith and credit of the state, but shall be payable solely from the revenues or assets of the corporation. Each obligation issued under this chapter shall contain on the face thereof a statement to the effect that the corporation shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on such obligation.
- (2) Expenses incurred by the corporation in carrying out the provisions of this chapter may be made payable from funds provided pursuant to this chapter and no liability shall be incurred by the corporation hereunder beyond the extent to which moneys shall have been so provided.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 7, effective June 17, 1978.

164A.080 Bond issue -- Amount -- Interest -- Use of proceeds -- Approval of General Assembly required for certain bond or note issuances -- Exception.

- (1) The corporation may provide for the issuance, at one (1) time or from time to time, of not exceeding five billion dollars (\$5,000,000,000) in bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on bonds or notes shall be payable solely from the funds provided for payment. Any notes may be made payable from the proceeds of bonds or renewal notes or, if bond or renewal note proceeds are not available, notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at the price or prices and under the terms and conditions determined by the corporation. Any bonds or notes shall bear interest at a rate or rates determined by the corporation. Notes shall mature at a time or times not exceeding five (5) years from their date or dates and bonds shall mature at a time or times not exceeding thirty (30) years from their date or dates, as determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. If any officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached to them shall cease to be an officer before the delivery of the bonds or notes, the signature or facsimile shall be valid and sufficient for all purposes as if he had remained in office until the delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation authorizing the sale of its bonds or notes, the bonds or notes may be sold in a manner, either at public or private sale, and for a price the corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter if the sale is approved by the corporation.
- (2) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued and shall be disbursed in a manner and under restrictions, if any, the corporation may provide in the resolution authorizing the issuance of bonds or notes or in the trust agreement securing the bonds or notes. The principal of and interest on any bonds issued by the corporation shall be payable only from the proceeds derived by the corporation from insured student loans made and purchased from the proceeds of the bonds.

- (3) (a) Prior to the issuance of any bonds or notes that are not secured by the repayment of student loans at least ninety-five percent (95%) insured by the guarantee agency and reinsured by the United States of America, the corporation shall obtain approval of the issuance from the General Assembly in accordance with the provisions of KRS 56.870(1). This requirement shall not apply to refunding bond or note issues which are for the purpose of achieving debt service savings and which do not extend the term of the refunded bond or note.
- (b) Notwithstanding paragraph (a) of this subsection, if during the interim of sessions of the General Assembly, the federal act is amended to reduce to less than ninety-five percent (95%) the maximum rate of insurance payable by the guarantee agency or reinsurance payable by the Secretary of Education of the United States on insured student loans, upon notification by the corporation to the Legislative Research Commission of the change in the federal act, the corporation may, until the adjournment of the next even-numbered-year regular session of the General Assembly, issue bonds or notes for student loans insured by the guarantee agency and reinsured by the Secretary of Education of the United States to the maximum extent permitted by the federal act.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 161, sec. 1, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 6, sec. 1, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 58, sec. 30, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 52, sec. 1, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 350, sec. 8, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 35, sec. 2, effective March 8, 1994; and ch. 53, sec. 3, effective July 15, 1994. -- Amended 1984 Ky. Acts ch. 314, sec. 1, effective July 13, 1984. -- Amended 1982 Ky. Acts ch. 179, sec. 1, effective April 1, 1982. -- Amended 1980 Ky. Acts ch. 124, sec. 1, effective April 3, 1980. -- Created 1978 Ky. Acts ch. 387, sec. 8, effective June 17, 1978.

Legislative Research Commission Note (7/15/94). This section was amended by 1994 Ky. Acts chs. 35 and 53. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 53, which was last enacted by the General Assembly, prevails under KRS 446.250.

164A.090 Trust agreements authorized.

In the discretion of the corporation any obligation issued under the provisions of this chapter may be secured by a trust agreement by and between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such obligations may pledge or assign all or any part of the revenues or assets of the corporation, including, without limitation, insured student loans, insured student loan commitments, temporary loans, contracts, agreement and other security or investment obligations, the fees or charges made or received by the corporation, the moneys received in payment of insured student loans and interest thereon, including the proceeds of insurance thereon, and any other moneys received or due to be received by the corporation. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such obligations as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the purposes to which obligation proceeds may be applied, the disposition or pledging of the revenues or assets of the corporation, the terms and conditions for the issuance of additional obligations, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of obligations, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. Any such trust agreement or resolution may set forth the rights and remedies of the holders of any obligations and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the corporation may deem reasonable and proper for the security of the holders of any obligations. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on obligations or from any other funds available to the corporation.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 9, effective June 17, 1978.

164A.100 Pledge of assets or revenues of corporation.

The pledge of any assets or revenues of the corporation to the payment of the principal of or the interest on any obligations of the corporation shall be valid and binding from the time when the pledge is made and any such assets or revenues shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Nothing herein shall be construed to prohibit the corporation from selling any assets subject to any such pledge except to the extent that any such sale may be restricted by the trust agreement or resolution providing for the issuance of such obligations.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 10, effective June 17, 1978

164A.110 All moneys received deemed trust funds.

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this chapter shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing any obligations or the trust agreement securing the same may provide that any of such moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and such resolution or trust agreement may provide. Any such moneys or any other moneys of the corporation may be invested as provided in KRS 386.020.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 11, effective June 17, 1978.

164A.120 Rights of holders of obligations.

Any holder of obligations issued under the provisions of this chapter or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such obligations, except the rights herein given may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the corporation pursuant to this chapter, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the corporation or by any officer thereof.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 12, effective June 17, 1978.

164A.130 Obligations issued under chapter are negotiable instruments.

Notwithstanding any of the foregoing provisions of this chapter or any recitals in any obligations issued under the provisions of this chapter, all such obligations and interest coupons appertaining thereto shall be and are hereby made negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 13, effective June 17, 1978.

164A.140 Public agencies, political subdivisions and others may invest in the securities issued by the corporation.

Obligations issued under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds, notes or obligations of the state is now or may hereafter be authorized by law.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 14, effective June 17, 1978.

164A.150 Issuance of refunding obligations.

- (1) The corporation is hereby authorized to provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which shall have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations and, if deemed advisable by the corporation, for any corporate purpose of the corporation. The issuance of such obligations, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the corporation in respect of the same shall be governed by the provisions of this chapter which relate to the issuance of obligations, insofar as such provisions may be appropriate therefor.
- (2) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 15, effective June 17, 1978.

164A.160 Reserve or replacement funds.

The corporation shall be authorized and empowered in connection with the issuance of its bonds and notes for student loan purposes pursuant to this chapter to establish in respect of such bonds and notes such reserve funds or replacement funds as may be required in the sound discretion of the board of directors of the corporation to enable the corporation to effectuate its proper public purposes. In the event any such reserve fund or replacement fund created by the corporation in connection with any such bonds or notes issued pursuant to a general bond resolution adopted prior to January 1, 2003, should, in violation of any contract made by the corporation with any bondholder or noteholder, be monetarily deficient in any respect as of any date of accounting so stipulated by the corporation, the corporation shall immediately make formal request in writing to the secretary of the Finance and Administration Cabinet, and to the Governor of Kentucky that sums adequate to restore such reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be included in the next succeeding executive budget, and that such budget request with recommendation for approval by the General Assembly of an appropriated legislative appropriation by the General Assembly to the corporation for the use and benefit of such reserve fund or replacement fund be submitted to such session of the General Assembly. In the event the next scheduled even-numbered-year regular session of the General Assembly of Kentucky shall occur more than six (6) months after any such request by the corporation, the corporation shall request that sums adequate to restore such reserve fund or replacement fund to such contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be made available from the Governor's contingency fund, and if such funds are so made available the budget request hereinabove described in this section shall be correspondingly reduced.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 8, sec. 2, effective June 24, 2003. -- Amended 2001 Ky. Acts ch. 58, sec. 28, effective June 21, 2001. -- Created 1978 Ky. Acts ch. 387, sec. 16, effective June 17, 1978.

164A.170 Annual report and audit.

The corporation shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor and the General Assembly. Each such report shall set forth a complete operating and financial statement of the corporation during the year. The corporation shall also cause an annual audit to be made by a resident independent certified public accountant of its books, accounts, and records, with respect to its receipts, disbursements, contracts, mortgages, leases, assignments, loans and all other matters relating to its financial operations. The persons performing such audit shall furnish copies of the audit report to the secretary of the Finance and Administration Cabinet, where they shall be placed on file and made available for inspection by the general public.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 17, effective June 17, 1978.

164A.180 Exemption from personal liability.

No member or other officer of the corporation shall be subject to any personal liability or accountability by reason of his execution of any obligations or the issuance thereof.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 18, effective June 17, 1978.

164A.190 Acceptance of and expenditure of moneys received from General Assembly.

The corporation is authorized to accept and expend such moneys as may be appropriated from time to time by the General Assembly or such moneys as may be received from any source including income from the corporation's operations, for effectuating its corporate purposes including, without limitation, the payment of the initial expenses of administration and operation and the establishment of a reserve or contingency fund to be available for the payment of the principal of and interest on any bonds or notes of the corporation.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 19, effective June 17, 1978.

164A.200 Corporation exempt from taxation -- Interest on bonds issued by corporation may be subject to federal income taxation.

The Kentucky Higher Education Student Loan Corporation has been duly created as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky. As the corporation will in all respects be performing essential governmental and public functions, the corporation shall not be required to pay any taxes or assessments upon any of its property, real, personal, or mixed, nor upon the income therefrom; and bonds, notes or other obligations issued by the corporation under this chapter, the income thereon, and the transfer thereof, including any profit made on the sale thereof, shall at all times be exempt from taxation or assessment of any type by the Commonwealth, its agencies and departments, and by all political subdivisions within the state. Nothing contained in this chapter shall preclude or prevent the authorization and issuance by the corporation from time to time of bonds, notes or other obligations, the receipt of interest on which may be subject to federal income taxation.

Effective: July 13, 1984

History: Amended 1984 Ky. Acts ch. 356, sec. 1, effective July 13, 1984. -- Created 1978 Ky. Acts ch. 387, sec. 20, effective June 17, 1978.

164A.210 Conflicts of interest.

If any member, officer or employee of the corporation shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract with the corporation, such interest shall be disclosed to the corporation and shall be set forth in the minutes of the corporation, and the member, officer or employee having such interest therein shall not participate on behalf of the corporation in the authorization of any such contract.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 21, effective June 17, 1978.

164A.220 Chapter deemed supplemental to other laws.

The foregoing sections of this chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or notes under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 22, effective June 17, 1978.

164A.230 Dissolution of corporation.

Upon termination or dissolution, all rights and properties of the corporation shall pass to and be vested in the Commonwealth of Kentucky, subject to the rights of lienholders and other creditors, unless the board of directors directs at such times that they be distributed among one (1) or more corporations, trusts, community chests, funds or foundations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder, member or individual and no substantial part of whose activities consists of carrying on propaganda, or otherwise attempting to influence legislation.

Effective: June 17, 1978

History: Created 1978 Ky. Acts ch. 387, sec. 23, effective June 17, 1978.

164A.240 "Eligible borrower" defined -- Additional student loans permitted -- Administrative regulations -- Bonds to finance loans -- Maximum annual loan amount.

- (1) (a) As used in this section, the term "eligible borrower" means a student, a former student, or the parent of a dependent student or former student, who demonstrates an intention and capacity to repay an educational loan and meets the loan criteria established by the promulgation of administrative regulations by the corporation.
- (b) Notwithstanding KRS 164A.020, with respect to any educational loan made or financed under this section, and any bonds or notes of the corporation to finance educational loans under this section, as used in KRS 164A.010 to 164A.240, the term:
 1. "Eligible institution" shall be deemed to include any educational institution approved by the corporation;
 2. "Eligible lender" shall be deemed to include any financial institution approved by the corporation; and
 3. "Insured student loan" or "student loan" shall be deemed to include any educational loan.
- (2) (a) In addition to the authority granted by KRS 164A.010 to 164A.240, the corporation is authorized to:
 1. Establish, finance, and operate educational loan programs deemed necessary by the Kentucky Higher Education Assistance Authority to make or cause to be made educational loans to meet the financial needs of eligible borrowers; and
 2. Exercise any of its powers with respect to educational loans pursuant to KRS 164A.010 to KRS 164A.240.
- (b) The corporation may, in connection with the program, enter into agreements with loan servicing organizations, guarantors, insurers, financial institutions, eligible lenders, and eligible institutions. The educational loan programs may provide for either the making of educational loans to eligible institutions and the relending to eligible borrowers or the making and purchasing of educational loans by the corporation.
- (3) The corporation may promulgate administrative regulations to implement the provisions of KRS 164A.010 to 164A.240.
- (4) The corporation may finance the educational loan programs through the issuance of its bonds or notes subject to the provisions set forth in KRS 164A.010 to 164A.240, except that KRS 164A.080(3) shall not apply to any loans and KRS 164A.160 shall not apply to any bonds or notes issued to fund loans authorized in this section. The proceeds of the bonds or notes used for the educational loan programs may be commingled with the proceeds of bonds or notes financing insured student loans as defined by KRS 164A.020. The bonds or notes issued under the provisions of this subsection shall be special and limited obligations, payable solely and only from the

receipts pledged and shall not constitute an indebtedness or liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

- (5) The corporation may establish reserve funds or replacement funds in connection with the issuance of bonds and notes for educational loan purposes as determined to be necessary by the board to enable the corporation to accomplish its proper public purposes.
- (6)
 - (a) The maximum annual loan amount shall not exceed:
 1. The costs incurred by the eligible borrower related to attendance less other financial aid, as certified by the eligible institution;
 2. The repayment amount of loans to fund the borrower's cost; or
 3. A lesser amount established by the board.
 - (b) The loan proceeds shall be used by the eligible borrower solely for these purposes.
- (7) The corporation may issue taxable bonds or notes for the financing of any program authorized by this chapter.
- (8) The Kentucky Higher Education Assistance Authority shall provide the services as the corporation may require to efficiently carry out the purposes of this section.
- (9) A person under the age of eighteen (18) years shall be deemed to have full capacity to act and shall have all rights, powers, privileges, and obligations of a person of full age for the purpose of applying for, receiving, and repaying educational loans authorized pursuant to this section. Notwithstanding any other statute to the contrary, a repayment obligation imposed by this section shall not be voidable by reason of the age of the recipient at the time of receiving the educational loan.
- (10) The corporation shall establish the interest rates and other terms and conditions for educational loans in a manner that it determines is financially sound. No provision of any other law of the Commonwealth of Kentucky that limits the rate or amount of interest payable on a loan shall apply to an educational loan authorized by this section.
- (11) A loan made pursuant to this section shall be governed by Kentucky law.
- (12) KRS 164.772, KRS 164.774, and KRS 131.565 are applicable to loans made pursuant to this section.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 8, sec. 1, effective June 24, 2003; and ch. 115, sec. 5, effective June 24, 2003. -- Repealed, reenacted, and amended as KRS 164A.240, 1988 Ky. Acts ch. 35, sec. 1, effective July 15, 1988. -- Created 1982 Ky. Acts ch. 403, sec. 8, effective July 15, 1982.

Formerly codified as KRS 164.755

Legislative Research Commission Note (6/24/2003). This section was amended by 2003 Ky. Acts chs. 8 and 115, which do not appear to be in conflict and have been codified together.

164A.250 Student loan forgiveness program for graduates in energy-related fields.

- (1) It is the intent of the General Assembly to establish a student loan forgiveness program for individuals who receive a bachelor's degree or graduate degree from a Kentucky college or university after August 30, 2007, and who are employed in an energy-related field as engineers, engineering technologists, chemists, geologists, or hydrologists in Kentucky. The loan forgiveness program shall be funded by the Commonwealth of Kentucky using state appropriations and shall be administered by the Kentucky Higher Education Student Loan Corporation. All costs associated with the program shall be paid for by the Commonwealth of Kentucky, including the reimbursement of any expenses incurred by the corporation in its administration of the program.
- (2) To the extent funds are available, the corporation shall provide eligible individuals forgiveness of loans within the Federal Family Education Loan Program held by the corporation up to a maximum of:
 - (a) Twenty percent (20%) of the loan balance principal; and
 - (b) Accrued interest;for each year of qualified employment in Kentucky after August 30, 2007, in an eligible occupation as set forth in subsection (4) of this section.
- (3) An individual shall be eligible for the loan forgiveness if he or she:
 - (a) Is a Kentucky resident, as determined by the corporation using the criteria established by the Council on Postsecondary Education for the purposes of postsecondary admission and tuition assessment;
 - (b) Is a citizen of the United States;
 - (c) Received a bachelor's degree or graduate degree after August 30, 2007, from a postsecondary education institution in Kentucky that is accredited by a regional or national accrediting association; and
 - (d) Is employed full-time in Kentucky in an eligible occupation as set forth in subsection (4) of this section.
- (4) Qualified employment in an eligible occupation shall be employment in an energy-related field as an engineer, including environmental engineer; engineering technologist, including environmental engineering technologist; chemist; geologist; or hydrologist. The corporation shall establish the specific eligible occupational titles within the eligible occupations set forth in this subsection through the promulgation of administrative regulations using the Standard Occupational Classification System of the Bureau of Labor Statistics within the U.S. Department of Labor. The corporation shall consult with the Council on Postsecondary Education in determining eligible occupational titles.
- (5) The corporation shall promulgate administrative regulations in accordance with KRS Chapter 13A as may be needed for the administration of the loan forgiveness program.

Effective: August 30, 2007

History: Created 2007 (2d Extra. Sess.) Ky. Acts ch. 1, sec. 53, effective August 30, 2007.

164A.550 Definitions for KRS 164A.555 to 164A.630.

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

- (1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges and technical institutions.
- (2) "Institutions" means all public supported postsecondary educational institutions in Kentucky recognized in KRS 164.100, 164.290, 164.580, or 164.810(1)(a).
- (3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.
- (4) "Depository bank" means any bank so designated by the Treasurer of the Commonwealth as appropriate for receiving public moneys.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 136, effective May 30, 1997. -- Amended 1988 Ky. Acts ch. 257, sec. 6, effective July 15, 1988. -- Created 1982 Ky. Acts ch. 391, sec. 1, effective July 15, 1982.

164A.555 Transfer of funds to institutions.

The secretary of the Finance and Administration Cabinet shall issue warrants authorizing the Treasurer of the Commonwealth of Kentucky to pay to the treasurer of each institution any amounts due by virtue of the state appropriations for that institution, or transfer the amount due electronically if electronic transfer is authorized by statute. The transfer of funds shall be handled in a manner to assure a zero (0) balance in the general fund account at the university.

Effective: July 15, 1982

History: Created 1982 Ky. Acts ch. 391, sec. 2, effective July 15, 1982.

164A.560 Election by institution to perform in accordance with KRS 164A.555 to 164A.630.

- (1) The governing boards of the postsecondary educational institutions electing to perform in accordance with KRS 164A.555 to 164A.630 regarding the acquisition of funds, accounting, purchasing, capital construction, and affiliated corporations shall do so by regulation. The responsibility for this election is vested with the governing boards, any other statute to the contrary notwithstanding. The governing board may delegate these responsibilities by regulation to appropriate officials of the institution. The anticipated investment earnings which have been credited to the general fund and the anticipated investment earnings on funds in the capital construction account, excluding revenue bonds, for fiscal years 1982-83 and 1983-84 may be deducted from the respective institution's trust and agency funds on deposit prior to the issuance of a check or transfer to the governing board.
- (2) The governing boards of institutions may elect to receive, deposit, collect, retain, invest, disburse, and account for all funds received or due from any source including, but not limited to, state and federal appropriations for the support or maintenance of the general operations or special purpose activities of such institutions. In the event of such election by the governing board:
 - (a) The treasurer of the institution shall deposit on a timely basis all tuition fees, fees for room and board, incidental fees, contributions, gifts, donations, devises, state and federal appropriations, moneys received from sales and services, admittance fees, and all other moneys received from any source, in a depository bank or banks designated by the governing board.
 - (b) The governing board shall promulgate rules and regulations limiting disbursements to the amounts and for the purposes for which state appropriations have been made, or for which other moneys have been received. All disbursements shall be recorded in a system of accounts as set forth in KRS 164A.555 to 164A.630. The treasurer of each institution shall prescribe forms to be used with the system of accounts, and no treasurer shall approve any disbursement document unless he determines that the disbursement is to satisfy a liability of the institution incurred for authorized purposes and that the disbursement is to be made from the unexpended balance of a proper allotment.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 137, effective May 30, 1997. -- Created 1982 Ky. Acts ch. 391, sec. 3, effective July 15, 1982.

164A.565 Accrual basis accounting system -- Other records -- Annual report.

- (1) The governing board of each postsecondary educational institution making the election authorized in KRS 164A.560 shall as a condition of such election install an accrual basis accounting system conforming with generally accepted accounting principles and procedures established for colleges and universities by the National Association of College and University Business Officers and the American Institute of Certified Public Accountants. The accounting system shall include but not be limited to the following fund structure:
 - (a) An operating fund group (unrestricted current funds), consisting of all moneys not otherwise restricted, available for general operations, including state appropriations, federal funds, and unrestricted institutional receipts. Separate accounting fund groups may be established for auxiliary enterprises, athletics, hospitals, and other similar operations;
 - (b) A restricted fund group consisting of appropriations and other receipts restricted as to purpose which shall not be included in the operating fund;
 - (c) A loan fund group consisting of gifts, grants, and other funds provided and available for loans to students;
 - (d) An endowment fund group consisting of funds, the principal of which is not currently expendable;
 - (e) An agency fund group consisting of resources held by the institutions as custodian or fiscal agent for individual students, faculty, staff members, and organizations;
 - (f) A plant fund group consisting of:
 1. Unexpended plant funds to be used for the acquisition of long-lived assets for institutional purposes (capital construction funds);
 2. Funds for renewal, maintenance, and replacement of institutional buildings, equipment, and other properties; and
 3. Funds set aside for debt service charges and retirement of indebtedness on institutional plant.
- (2) A record of each general fund appropriation shall be maintained so as to identify the institutional budgets to which such funds are allotted. Any uncommitted state general funds remaining after the close of business on the last day of the fiscal year shall lapse and be returned to the Treasury of the Commonwealth. Each appropriation shall be used for the intended purpose and where questions of intent arise subject to the provisions of KRS 45.750 and 45.800 in the case of capital construction projects and major items of equipment as defined by these sections, the decision of the secretary of finance and administration, based upon budget work papers, shall be final.
- (3) A separate account showing sources of revenue and all expenditures shall be maintained for each capital construction project. At the end of each fiscal year, a report containing a listing of all capital construction projects, with sources of funds, expenditures, and current status for each, shall be submitted to the Capital Projects and Bond Oversight Committee.

- (4) Within thirty (30) days after July 15, 1982, the secretary of the Finance and Administration Cabinet shall submit to the Capital Projects and Bond Oversight Committee a complete record of all funds and project records transferred to institutions under the provisions of KRS 164A.555 to 164A.630.
- (5) Within thirty (30) days after July 15, 1982, the governing boards shall submit to the Capital Projects and Bond Oversight Committee a report containing a complete list of capital construction projects and unexpended plant funds in existence on July 15, 1982. The source of funds, expenditures, and current status of each project shall be shown.
- (6) State general funds appropriated by the General Assembly for capital construction projects and equipment purchases as defined in KRS 45.750 through 45.800 shall not lapse at the end of a fiscal year. They shall be carried forward until the project is completed. Any such unexpended funds remaining after acceptance of the project as complete shall be returned to a surplus account of the capital construction fund for investment until appropriated and allotted as provided in KRS 45.750 through 45.800.
- (7) Long lived assets of the institution, including land, buildings, and capital equipment shall be accounted for in the plant fund group.
- (8) The governing boards of each institution shall make an annual report of the financial activity to the Council on Postsecondary Education. The report shall meet the requirements of the council's system of uniform financial reporting for institutions of higher education.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 138, effective May 30, 1997. -- Created 1982 Ky. Acts ch. 391, sec. 4, effective July 15, 1982.

164A.570 Annual audit.

The governing board of any postsecondary educational institution making the election prescribed in KRS 164A.560 shall engage a qualified firm of certified public accountants experienced in the auditing of institutions to conduct an annual examination of the institution's financial statements in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning internal accounting controls and procedures, and compliance with KRS 164A.555 to 164A.630. The secretary of the Finance and Administration Cabinet may prescribe the minimum scope of any such audit. The opinion, with the findings and recommendations, shall be forwarded to the Governor, the secretary of the Finance and Administration Cabinet, the Auditor of Public Accounts, the director of the Legislative Research Commission, the president of the Council on Postsecondary Education, and members of the governing board.

Effective: May 30, 1997

History: Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 139, effective May 30, 1997. -- Created 1982 Ky. Acts ch. 391, sec. 5, effective July 15, 1982.

164A.575 Purchasing -- Inventories -- Sales of surplus property -- Bidding procedures.

- (1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:
 - (a) Contractual services where no competition exists;
 - (b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;
 - (c) Instructional materials available from only one (1) source;
 - (d) Where rates are fixed by law or ordinance;
 - (e) Library books;
 - (f) Commercial items that are purchased for resale;
 - (g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;
 - (h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and
 - (i) Interests in real property.
- (2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.
- (3) The governing board shall require the institution to take and maintain inventories of plant and equipment.
- (4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies, materials, and equipment.
- (5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.
- (6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.
- (7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All

instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

- (8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.
- (9)
 - (a) As used in this section, "construction manager-agency," "construction management-at-risk," "design-bid-build," and "design-build" shall have the same meaning as in KRS 45A.030.
 - (b) For capital construction projects, the procurement may be on a total design-bid-build basis, a design-build basis, or construction management-at-risk basis, whichever in the judgment of the board offers the best value to the taxpayer. Proposals shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Services for projects delivered on the design-build basis or construction management-at-risk basis shall be procured in accordance with KRS 45A.180 and the regulations promulgated in accordance with KRS 45A.180. Nothing in this section shall prohibit the procurement of construction manager-agency services.
- (10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.
- (11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.
- (12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the

record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

Effective: June 20, 2005

History: Amended 2005 Ky. Acts ch. 29, sec. 7, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 56, sec. 1, effective June 24, 2003; and ch. 98, sec. 16, effective June 24, 2003. -- Amended 1997 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 140, effective May 30, 1997. -- Amended 1990 Ky. Acts ch. 496, sec. 50, effective July 13, 1990. -- Created 1982 Ky. Acts ch. 391, sec. 6, effective July 15, 1982.

164A.580 Management of capital construction projects.

Subject to the provisions of KRS 45.750 through 45.800, 45A.180, and 56.870 to 56.874, the governing board of each institution may provide for the management and administration of capital construction projects authorized for such institution including, but not limited to:

- (1) The procurement of necessary consulting services;
- (2) The supervision and control of the making of all contracts for building projects, renovation projects, repair projects, and supervision of same;
- (3) The prescription of the amount and form of evidences of indebtedness submitted in connection with bids and contracts when not otherwise provided by law;
- (4) The preparation of plans and specifications for any construction, alteration, or enlargement of buildings, structures, and other improvements;
- (5) The advertisement of bids and the awarding of contracts in connection with such projects;
- (6) The supervision and inspection of all related work;
- (7) The approval of changes in plans or specifications; and
- (8) The acceptance of such improvements when completed according to such plans and specifications.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 98, sec. 17, effective June 24, 2003. -- Created 1982 Ky. Acts ch. 391, sec. 8, effective July 15, 1982.

164A.585 Contracting for capital construction projects.

- (1) Subject to authorization by the General Assembly and KRS 164A.580, the governing boards may make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against institution funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal, water supply system or other utility system.
- (2) Review of construction plans for conformance with the uniform state building code shall be conducted by the Office of Housing, Buildings and Construction. The board shall not approve any such project requiring its approval in any instance where it finds that the project is not needed, or that the proposed method of financing is not sound, or in cases where the project will exceed the amount of the funds available therefor, or the work contemplated will be insufficient to accomplish the purpose of the project, or that after providing for the ordinary recurring expenses of administration and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the Treasury to promptly pay for the work or that the work is to be done by employees of the institution.
- (3) Any capital construction project, except as provided in subsection (4) of this section, shall be contracted for on a competitive bid basis, and the execution of such contracts shall be approved and authorized by the board. When a capital construction project has been approved as provided in this section, in whole or in part, the board shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction and handle the financial negotiations.
- (4) A capital construction project, the total cost of completion of which will not exceed two hundred thousand dollars (\$200,000), may be performed by the employees of the institution or by individuals hired specifically for the project. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the board as defined in KRS 164A.575.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 93, sec. 1, effective July 12, 2006. -- Amended 2003 Ky. Acts ch. 98, sec. 18, effective June 24, 2003. -- Amended 1986 Ky. Acts ch. 338, sec. 2, effective July 15, 1986. -- Created 1982 Ky. Acts ch. 391, sec. 9, effective July 15, 1982.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.

164A.590 Contracting for architectural and engineering services.

- (1) In the procurement of architectural and engineering services, the governing board of the institution shall encourage firms engaged in the lawful practice of their profession to submit an annual statement of qualifications and performance data.
- (2) When the need for architectural and engineering services arise for specific projects, the governing board shall evaluate current statements of qualifications and performance data on file with the Commonwealth, together with those that may be submitted by other firms and shall conduct discussions with no less than three (3) firms regarding anticipated design concepts and the relative utility of alternative methods of approach for furnishing the required services, and shall then select therefrom, in order of preference, based upon criteria established and published, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required.
- (3) The governing board shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the governing board determines in writing to be fair and reasonable to the Commonwealth. In making this decision, the governing board shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the governing board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price it determines to be fair and reasonable to the institution, negotiations with that firm shall be formally terminated. The governing board shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the governing board shall formally terminate negotiations with that firm. The governing board shall then undertake negotiations with the third most qualified firm. Should the governing board be unable to negotiate a satisfactory contract with any of the selected firms, it shall select additional firms in order of their competence and qualification and the governing board shall continue negotiations in accordance with this section until an agreement is reached.

Effective: July 15, 1982

History: Created 1982 Ky. Acts ch. 391, sec. 10, effective July 15, 1982.

164A.595 Carrying out of capital construction projects.

Capital construction projects shall be carried out as follows:

- (1) Subject to the provisions of KRS 45.750 through 45.800 and 45A.180, the governing boards of the institutions may acquire, erect, construct, reconstruct, improve, rehabilitate, remodel, repair, complete, extend, enlarge, equip, furnish, and operate any buildings, structures, improvements, or facilities, including any utilities, other related services and appurtenances and land required as the respective governing boards shall deem necessary for carrying on the educational, research or public service programs or discharging the statutory responsibilities of the universities and colleges and various divisions under the jurisdiction of the boards, or for the management, operation, or servicing of the universities and colleges.
- (2) The governing boards may acquire real or personal property, by purchase, lease, sublease, condemnation, trade or exchange, gift, devise, or otherwise, and improve such property whenever in the judgment of the governing board it shall be necessary. The title to any real estate acquired under this section shall vest in the Commonwealth for the use and benefit of the appropriate institution.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 98, sec. 19, effective June 24, 2003. -- Created 1982 Ky. Acts ch. 391, sec. 11, effective July 15, 1982.

164A.600 Procedures and limitations of KRS 45.750 through 45.800 and KRS Chapter 45A apply -- Projects limited to scope authorized by General Assembly.

- (1) The procedures and limitations related to capital construction and equipment purchases set forth in KRS 45.750 through 45.800 and for construction of capital projects set forth in KRS Chapter 45A shall apply to the governing boards. The governing boards shall establish a contingency fund and an emergency repair, maintenance and replacement fund in their plant fund records. Transfer and use of these funds shall be governed by the provisions of KRS 45.770 and 45.780, as appropriate, except that the governing boards of each university shall perform the functions assigned to the Finance and Administration Cabinet in KRS 45.770 and 45.780.
- (2) Capital construction and equipment purchase projects established by the governing boards shall be limited to the scope authorized by the General Assembly, and the total costs of each project shall not exceed the appropriation; except for emergency projects that may arise. In such instances, the governing boards may transfer funds from other projects or from operating funds; however each emergency project that is authorized by the board and sources of funds shall be promptly reported to the Capital Projects and Bond Oversight Committee.

Effective: June 24, 2003

History: Amended 2003 Ky. Acts ch. 98, sec. 20, effective June 24, 2003. -- Created 1982 Ky. Acts ch. 391, sec. 12, effective July 15, 1982.

164A.605 Procedures and limitations on issuance of consolidated educational building revenue bonds, housing bonds, or bond anticipation notes.

Subject to the provisions of KRS 45.750 to 45.800 and KRS 56.870 to 56.874, the governing boards may issue, under the provisions of KRS 162.340 to 162.380, consolidated educational building revenue bonds, housing bonds, or bond anticipation notes. The board of the institution shall submit to the State Property and Buildings Commission a request for approval of the project before any financial commitment of any sort may be made in connection therewith, including employment of architects, engineers, fiscal agents, or attorneys. Personal service contracts for fiscal agents and bond counsel shall be subject to KRS 45A.690 to 45A.725 and architects and engineers shall be selected as provided in KRS 164A.590. After approval by the commission, the governing board shall appoint fiscal agents, bond counsel, and architects and engineers as may be required to make plans and specifications or financial arrangements for the project. The date of sale on such issues shall be coordinated with the Finance and Administration Cabinet to avoid a conflict with other state bond issues.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 496, sec. 51, effective July 13, 1990. -- Created 1982 Ky. Acts ch. 391, sec. 13, effective July 15, 1982.

164A.608 Interception of appropriated funds when institution is unable to make bond payments -- Action by governing board to generate additional revenues.

If the governing board is unable to pay the required principal and interest payments due on agency bonds issued by the postsecondary institution from system revenues or from other available agency revenues and the governing board fails to transmit to the paying agent bank or trustee the debt service and administrative payments when due as required by the bond issuance resolution, the paying agent bank or trustee shall notify the secretary of the Finance and Administration Cabinet in writing and request that the cabinet withhold or intercept from the governing board a sufficient portion of any appropriated state funds not yet disbursed to the institution to satisfy the required payment on the bonds. If the secretary determines that the institution is in risk of defaulting on the payment of the bonds or has defaulted, the secretary shall notify the governing board and within five (5) days remit payment to the paying agent bank or trustee such funds as are required from the appropriation to the institution. Thereafter, the governing board shall, to the extent it is otherwise legally permitted, take action within sixty (60) days to adopt a resolution to generate additional revenues, such as increasing the minimum rents, tolls, fees, and other charges, in order to positively adjust remittances to the funds accounts. Nothing in this section shall be construed to create any obligation on the part of the Commonwealth to make any payment on behalf of the defaulting institution other than from funds previously appropriated to the governing board of that institution.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 111, sec. 10, effective July 13, 2004.

164A.610 Organization and operation of affiliated corporations.

- (1) An institution may organize and operate one (1) or more affiliated corporations to assist it in carrying out its programs, missions or other functions. A qualified firm of certified public accountants experienced in the auditing of colleges and universities and their affiliated corporations shall be engaged to conduct an annual examination of the corporation's financial statements in accord with generally accepted auditing standards for the purpose of rendering an independent opinion thereon and preparing a report of findings and recommendations concerning appropriate accounting controls and compliance with applicable statutes. The affiliated corporation shall adhere to the principles of accounting and purchasing used by the institution with which it is affiliated.
- (2) The affiliated corporation shall provide the institution with an accounting at least quarterly, of all income and expenditures of said corporation in connection with contracts or grants with entities external to the institution and the corporation, for the conduct of research or other projects carried out, in whole or in part, through the use of institutional facilities or personnel.
- (3) The affiliated corporation shall pay to, or for the benefit of, the institution any and all funds received by it from any person, corporation, association or governmental agency external to the institution and the affiliated corporation as reimbursement for indirect expenses incurred by the institution in carrying out research or furnishing other goods or services, deducting from such payments only the expenses attributable to the procurement and performance of research grants and contracts and other contracts for the provision of such goods and services and such sums as may be essential to meet contractual obligations incurred at the request of the institution's governing board.

Effective: July 15, 1982

History: Created 1982 Ky. Acts ch. 391, sec. 14, effective July 15, 1982.

164A.615 Acceptance of gifts -- Awarding of scholarships, grants, etc.

Nothing contained in KRS 164A.555 to 164A.630 shall be construed to prevent an institution or an affiliated corporation from enforcing or carrying out the bona fide terms of any gift, grant, conveyance, devise or bequest from any private person, corporation, foundation, estate or other entity contributing funds or any other thing of value to the institution or affiliated corporation, nor shall same be construed to prevent an affiliated corporation from awarding athletic scholarships or other scholarship, fellowship, assistantship or similar grants, loans or awards to students, faculty or other employees of an institution, or from performing such other functions as may be assigned by the institution's governing board.

Effective: July 15, 1982

History: Created 1982 Ky. Acts ch. 391, sec. 15, effective July 15, 1982.

164A.620 Fund for excellence.

The governing board is authorized to establish a "fund for excellence" trust fund into which gifts, grants, and special appropriations by the General Assembly intended for such purpose may be deposited. The governing board may also deposit into this fund proceeds from the sale of surplus property. Investment income from moneys in this fund shall be used only to enhance academic programs of the institutions.

Effective: July 15, 1982

History: Created 1982 Ky. Acts ch. 391, sec. 17, effective July 15, 1982.

164A.625 Severability clause.

If any provisions of KRS 164A.555 to 164A.630 or the application thereof to any persons or circumstance is held invalid, the invalidity shall not affect other provisions or applications of KRS 164A.555 to 164A.630 which can be given effect without the invalid provision or application, and to this end the provisions of KRS 164A.555 to 164A.630 are severable.

Effective: July 15, 1982

History: Created 1982 Ky. Acts ch. 391, sec. 18, effective July 15, 1982.

164A.630 Statutes binding the board.

- (1) In carrying out the provisions of KRS 164A.555 to 164A.630 the governing boards shall be bound by the following statutes:
 - (a) KRS 56.610 to 56.820 regarding relocation assistance and lease of property for state use, and 56.870 to 56.874 regarding legislative approval of state fiscal obligations.
 - (b) The Kentucky Model Procurement Code as set forth in KRS Chapter 45A.
 - (c) KRS Chapter 56 as it relates to the approval of revenue bond issues by the State Property and Buildings Commission, and the issuance of revenue bonds and bond anticipation notes.
 - (d) KRS 45.550 to 45.640 regarding equal employment opportunity.
- (2) Any other provisions of KRS Chapters 41, 42, 45, 56, 57 to the contrary notwithstanding, KRS 164A.555 to 164A.630 shall govern the financial management of higher education with the exception of KRS 45.990 and 45A.990 having to do with penalties which shall be applicable to violations of KRS 164A.555 to 164A.630.
- (3) Any officer, agent or employee of any institution who willfully fails or refuses to comply with any other provisions of KRS 164A.555 to 164A.630 is subject to indictment in the appropriate Circuit Court and upon conviction shall be fined not less than fifty dollars (\$50) nor more than one thousand dollars (\$1000) for each offense.

Effective: July 15, 1982

History: Created 1982 Ky. Acts ch. 391, sec. 19, effective July 15, 1982.

164A.700 Definitions for KRS 164A.700 to 164A.709.

As used in KRS 164A.700 to 164A.709, unless the context requires otherwise:

- (1) "Academic year" means the time period specified by each eligible educational institution;
- (2) "Board" means the board of directors of the Kentucky Higher Education Assistance Authority acting in the capacity of the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund;
- (3) "Eligible educational institution" means an institution defined in the Internal Revenue Code of 1986, as amended, 26 U.S.C. sec. 529(e)(5);
- (4) "Fund" means the prepaid tuition payment fund created in KRS 164A.701 and known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund" or "Kentucky's Affordable Prepaid Tuition" (KAPT);
- (5) "Prepaid tuition" means the amount of tuition estimated by the board for the tuition plan under the prepaid tuition contract;
- (6) "Prepaid tuition academic year conversion" means the difference between the amount of prepaid tuition required in the original prepaid tuition contract and the amount of prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year;
- (7) "Prepaid tuition academic year conversion shortfall" means the amount by which the prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year exceeds the amount of prepaid tuition required in the original prepaid tuition contract;
- (8) "Prepaid tuition account" means the account for a qualified beneficiary as specified in the prepaid tuition contract;
- (9) "Prepaid tuition contract" means the contract entered into by the board and the purchaser for the purchase of prepaid tuition for a qualified beneficiary to attend any eligible educational institution as provided in KRS 164A.700 to 164A.709;
- (10) "Prepaid tuition conversion" means the difference between the value of a prepaid tuition account and the tuition at an eligible educational institution;
- (11) "Prepaid tuition conversion shortfall" means the amount by which the actual tuition cost at an eligible educational institution exceeds the amount of the value of a prepaid tuition account;
- (12) "Purchaser" means a person, corporation, association, partnership, or other legal entity who enters into a prepaid tuition contract;
- (13) "Qualified beneficiary" means a designated beneficiary, as defined in 26 U.S.C. sec. 529(e)(1), who is:
 - (a) A Kentucky resident designated as beneficiary at the time a purchaser enters into a prepaid tuition contract; or
 - (b) A nonresident designated at the time a purchaser enters into a prepaid tuition contract who intends to attend an eligible institution in Kentucky; or

- (c) A new beneficiary, in the case of a change of beneficiaries under provisions of KRS 164A.707; or
- (d) An individual receiving a scholarship in the case of a prepaid tuition contract purchased by a state or local government or agency or instrumentality thereof or an organization described in 26 U.S.C. sec. 501(c)(3), and exempt from federal income taxation pursuant to 26 U.S.C. sec. 501(a) as part of a scholarship program offered by the government entity or the organization;
- (14) "Qualified postsecondary education expenses" means qualified higher education expenses as defined in 26 U.S.C. sec. 529(e)(3);
- (15) "Tuition" means the prevailing tuition and all mandatory fees charged as a condition of full-time enrollment in an undergraduate program for an academic year for a qualified beneficiary to attend an eligible educational institution;
- (16) "Tuition Account Program Office" or "office" means the office in the Kentucky Higher Education Assistance Authority that is responsible for administering the prepaid tuition program and its accounts;
- (17) "Tuition plan" means a tuition plan approved by the board and provided under a prepaid tuition contract; and
- (18) "Value of a prepaid tuition account" means the amount which the fund is obligated to pay for tuition for an academic period based on full payment of the purchaser's tuition plan; except, under a tuition plan for private colleges and universities, tuition shall be calculated based on the same percentage that University of Kentucky tuition is increased from the year the prepaid tuition contract is purchased to the year of payment.

Effective: April 25, 2006

History: Amended 2006 Ky. Acts ch. 252, Pt. XXXI, sec. 1, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 162, sec. 3, effective July 1, 2005. -- Amended 2002 Ky. Acts ch. 25, sec. 1, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 163, sec. 1, effective July 14, 2000.

**164A.701 Commonwealth postsecondary education prepaid tuition trust fund --
Prepaid postsecondary tuition administrative account.**

- (1) (a) There is hereby created an instrumentality of the Commonwealth to be known as the "Commonwealth postsecondary education prepaid tuition trust fund", to be governed by the board and administered by the Tuition Account Program Office. The fund shall be attached to the Kentucky Higher Education Assistance Authority for administrative and reporting purposes, and shall be governed, managed, and administered as a separate and distinct instrumentality of the Commonwealth under the provisions of KRS 164A.700 to 164A.709.
 - (b) The fund shall consist of payments received from prepaid tuition contracts under KRS 164A.700 to 164A.709. Payments received relating to contracts in existence on April 25, 2006, and income earned from the investment of those payments shall be maintained separately from payments received relating to contracts entered into after April 25, 2006, and income earned from the investment of those payments. Income earned from the investment of payments to the fund shall remain in the fund and be credited to it.
 - (c) Notwithstanding any other statute to the contrary, all moneys received under the authority of KRS 164A.700 to 164A.709 and 393.015 shall be deemed to be trust funds to be held and applied solely for payment to qualified beneficiaries and purchasers and to meet the expenses necessary for the administration and maintenance of the fund as provided in KRS 164A.700 to 164A.709.
 - (d) The fund shall not constitute an investment company as defined in KRS 291.010.
 - (e) Obligations under a prepaid tuition contract incurred in accordance with the provisions of KRS 164A.700 to 164A.709 shall not be deemed to constitute a debt, liability, or obligation of the Kentucky Higher Education Assistance Authority, but shall be payable solely from the fund. Each prepaid tuition contract shall contain a statement that the obligation shall be payable solely from the fund.
- (2) The purposes of the fund are:
 - (a) To provide affordable access to participating institutions for the qualified beneficiaries; and
 - (b) To provide students and their parents economic protection against rising tuition costs.
 - (3) The Tuition Account Program Office and the facilities of the Kentucky Higher Education Assistance Authority shall be used and employed in the administration of the fund including, but not limited to, the keeping of records, the employment of staff to assist in the administration of the fund, the management of accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments.

- (4) (a) Assets of the fund shall be invested in any of the following security types that are deemed appropriate by the board:
1. Government and agency bonds;
 2. Investment grade asset-backed securities and corporate bonds;
 3. Mortgages, excluding interest-only (IO), principal-only (PO), and inverse floaters; and
 4. Equities.
- (b) Equities shall constitute no greater than sixty percent (60%) of the entire portfolio, including up to ten percent (10%) in equities from outside the United States.
- (c) The duration of the fixed-income portion of the portfolio shall reflect the future liability of the fund for tuition payments.
- (d) Assets may be pooled for investment purposes with any other investment of the Commonwealth that is eligible for asset pooling.
- (e) Leveraging is strictly prohibited.
- (5) The board may receive and deposit into the fund gifts made by any individual or agency as deemed acceptable by the board together with funds that are obtained from sources legally available and determined by the board to be applicable for the purposes of KRS 164A.700 to 164A.709.
- (6) There is created a separate account within the Kentucky Higher Education Assistance Authority to be known as the prepaid postsecondary tuition administrative account for the purposes of implementing and maintaining the fund.
- (a) Moneys shall be transferred from the fund to the administrative account to meet the expenses necessary for the administration and maintenance of the fund. Expenses incurred by the board and the Tuition Account Program Office in carrying out the provisions of KRS 164A.700 to 164A.709 shall be made payable from the fund through the administrative account, and no administrative expenses shall be incurred by the Kentucky Higher Education Assistance Authority beyond those for which moneys are provided by the fund.
- (b) The board may establish administrative fees for handling prepaid tuition contracts and deposit the funds attributable to the fees in the administrative account.

Effective: April 25, 2006

History: Amended 2006 Ky. Acts ch. 252, Pt. XXXI, sec. 3, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 162, sec. 4, effective July 1, 2005. -- Amended 2002 Ky. Acts ch. 25, sec. 2, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 163, sec. 2, effective July 14, 2000.

Legislative Research Commission Note (7/1/2005). KRS 393.015, the statute cited in subsection (1)(c) of this section, was repealed by 2005 Ky. Acts ch. 173, Part XXI, sec. 2, effective March 20, 2005.

164A.704 Duties of board.

The board shall:

- (1) Promulgate administrative regulations, set fees, and adopt procedures as are necessary to implement the provisions of KRS 164A.700 to 164A.709;
- (2) Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services;
- (3) Invest moneys in the fund in any instruments, obligations, securities, or property as permitted by KRS 164A.701(4) and deemed appropriate by the board;
- (4) Procure insurance to protect against any loss in connection with the fund's property, assets, or activities and to indemnify board members from personal loss or accountability from liability arising from any action or inaction as a board member;
- (5) Make arrangements with eligible educational institutions in the Commonwealth to fulfill obligations under prepaid tuition contracts, including, but not limited to, payment from the fund of the tuition cost on behalf of a qualified beneficiary to attend an eligible educational institution in which the beneficiary is admitted and enrolled;
- (6) Develop requirements, procedures, and guidelines regarding prepaid tuition contracts, including but not limited to, the termination, withdrawal, or transfer of payments under a prepaid tuition contract; tuition shortfalls; number of participants; time limitations for prepaid tuition contracts and the use of tuition benefits; tuition conversions; payment schedules; payroll deductions; penalties for failure of purchasers to adhere to contracts; and transfer of prepaid tuition credits towards private education in the Commonwealth or for out-of-state institutions;
- (7) Have the actuarial soundness of the fund evaluated by a nationally recognized independent actuary annually, by October 1 of each year, to determine:
 - (a) The amount of prepaid tuition for each tuition plan; and for each eligible educational institution for specific academic years, the corresponding value;
 - (b) Whether additional assets are necessary to defray the obligations of the portion of the fund relating to contracts entered into before April 25, 2006, and when those funds will be needed.
 1. For purposes of this paragraph, a "real liability expected to accrue during the next biennium" exists if the amount in the fund representing contracts entered into before April 25, 2006, is not sufficient to meet all anticipated distributions under contracts entered into before April 25, 2006, and the expense of maintaining and operating the fund for the upcoming biennium.
 2. If the report of the actuary submitted in an odd-numbered year reflects that there will be a real liability expected to accrue during the next biennium, the secretary of the Finance and Administration Cabinet shall include in the budget request for the cabinet an appropriation to the board in an amount necessary to meet the real liability in each fiscal year of the biennium, and the General Assembly shall appropriate the necessary funds; and

- (c) Whether additional assets are necessary to defray the obligations of the portion of the fund relating to contracts entered into after April 25, 2006, and when those funds will be needed. If the assets of the portion of the fund relating to contracts entered into after April 25, 2006, are insufficient to ensure the actuarial soundness of that portion of the fund, as reported by the actuary, the board shall adjust the price of subsequent purchases of prepaid tuition contracts to the extent necessary to restore the actuarial soundness of the fund. The board may suspend the sale of prepaid tuition contracts until the next annual actuarial evaluation is completed if the board determines the action is needed to restore the actuarial soundness of the fund. During a suspension of sales of contracts, the board and Tuition Account Program Office shall continue to service existing contract accounts and meet all obligations under existing prepaid tuition contracts; and
- (8) Make an annual report each year by November 1 to the Legislative Research Commission and the Governor showing the fund's condition, and whether additional assets will be necessary to defray the obligations of the fund.

Effective: April 25, 2006

History: Amended 2006 Ky. Acts ch. 252, Pt. XXXI, sec. 4, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 162, sec. 5, effective July 1, 2005. -- Amended 2002 Ky. Acts ch. 25, sec. 4, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 163, sec. 4, effective July 14, 2000.

**164A.705 Obligations of fund and of purchaser or qualified beneficiary --
Limitation of liability -- Use of tuition account.**

- (1) The prepaid tuition contract entered into by the purchaser and the board shall constitute an irrevocable pledge and guarantee by the fund to pay for the tuition of a qualified beneficiary upon acceptance and enrollment at an eligible educational institution in accordance with the tuition plan purchased.
- (2) A board member or any employee of the Tuition Account Program Office or the Kentucky Higher Education Assistance Authority shall not be subject to any personal liability by reason of his or her issuance or execution of a prepaid tuition contract under KRS 164A.700 to 164A.709.
- (3) Under a tuition plan for private colleges and universities, tuition shall be paid based on the same percentage that University of Kentucky tuition is increased from the year the prepaid tuition contract is purchased to the year of payment.
- (4) The purchaser or qualified beneficiary shall pay to the eligible educational institution the amount of any prepaid tuition academic year conversion shortfall and the amount of any prepaid tuition conversion shortfall.
- (5) A qualified beneficiary attending an eligible educational institution may apply the value of a prepaid tuition account to a specific academic year at the maximum course load or maximum number of credit hours generally permitted to full-time undergraduates at that institution.
- (6) The value of a prepaid tuition account remaining after tuition is paid may be used for other qualified educational expenses under administrative regulations promulgated by the board in compliance with 26 U.S.C. sec. 529. The board may permit the use of the value of a prepaid tuition account for part-time undergraduate enrollment or graduate programs at eligible educational institutions.
- (7) If a qualified beneficiary attends an eligible educational institution for which payment of tuition is not guaranteed by the fund in whole or in part, and if the cost of tuition exceeds the value of a prepaid tuition account, the fund shall have no responsibility to pay the difference. If the value of a prepaid tuition account exceeds the cost of tuition, the excess may be used for other qualified postsecondary education expenses as directed by the purchaser.
- (8) The value of a prepaid tuition account shall not be used in calculating personal asset contribution for determining eligibility and need for student loan programs, student grant programs, or other student aid programs administered by any agency of the Commonwealth, except as otherwise may be provided by federal law.

Effective: April 25, 2006

History: Amended 2006 Ky. Acts ch. 252, Pt. XXXI, sec. 5, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 162, sec. 6, effective July 1, 2005. -- Amended 2002 Ky. Acts ch. 25, sec. 5, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 163, sec. 5, effective July 14, 2000.

164A.707 Prepaid tuition contracts -- Amendments -- Accounts not subject to creditors or taxes -- No guarantee of attendance at institution -- Payment of contracts -- Beneficiaries -- Investments and earnings -- Contracts not securities or annuities -- Contracts subject to amendment by subsequent change to statute, regulation, or policy.

- (1) Purchasers buying prepaid tuition for a qualified beneficiary shall enter into prepaid tuition contracts with the board. These contracts shall be in a form as shall be determined by the office. The contract shall provide for the purchase of a tuition plan for prepaid tuition for the qualified beneficiary from one (1) to five (5) specific academic years.
- (2) Upon written notification to the office a purchaser may amend the prepaid tuition contract to change:
 - (a) The qualified beneficiary, in accordance with 26 U.S.C. sec. 529;
 - (b) The academic year or years for which prepaid tuition is purchased;
 - (c) A tuition plan designation to another tuition plan designation;
 - (d) The number of years for which prepaid tuition is purchased; or
 - (e) Other provisions of the prepaid tuition contract as permitted by the board.
- (3) A prepaid tuition account shall not be subject to attachment, levy, or execution by any creditor of a purchaser or qualified beneficiary. Prepaid tuition accounts shall be exempt from all state and local taxes including, but not limited to, intangible personal property tax levied under KRS 132.020, individual income tax levied under KRS 141.020, and the inheritance tax levied under KRS Chapter 140. Payments from a prepaid tuition account used to pay qualified postsecondary education expenses, or disbursed due to the death or disability of the beneficiary, or receipt of a scholarship by the beneficiary shall be exempt from tax liabilities.
- (4) Nothing in KRS 164A.700 to 164A.709 or in a prepaid tuition contract shall be construed as a promise or guarantee that a qualified beneficiary shall be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted, or be graduated from an eligible educational institution.
- (5) Prepaid tuition contract payments shall not be made in real or personal property other than cash and shall not exceed the prepaid tuition. Prepaid tuition contract payments may be made in a lump sum or installments.
- (6) The purchaser shall designate the qualified beneficiary at the time the purchaser enters into a prepaid tuition contract, except for a prepaid tuition contract purchased in accordance with KRS 164A.700(13)(d). In the case of gifts made to the fund, the board shall designate a qualified beneficiary at the time of the gift.
- (7) The prepaid tuition contract shall provide that the purchaser and the qualified beneficiary shall not directly or indirectly or otherwise control the investment of the prepaid tuition account or earnings on the account. Payments made for prepaid tuition shall be accounted for separately for each qualified beneficiary. No interest or earnings on a prepaid tuition contract of the purchaser or qualified beneficiary shall be pledged or otherwise encumbered as security of a debt.

- (8) A prepaid tuition contract does not constitute a security as defined in KRS 292.310 or an annuity as defined in KRS 304.5-030.
- (9) Each prepaid tuition contract is subject to, and shall incorporate by reference, all operating procedures and policies adopted by the board, the statutes governing prepaid tuition contracts in KRS 164A.700 to 164A.709 and 393.015, and administrative regulations promulgated thereunder. Any amendments to statutes, administrative regulations, and operating procedures and policies shall automatically amend prepaid tuition contracts, with retroactive or prospective effect, as applicable.

Effective: April 25, 2006

History: Amended 2006 Ky. Acts ch. 252, Pt. XXXI, sec. 6, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 162, sec. 7, effective July 1, 2005; and ch. 173, Pt. XXI, sec. 1, effective March 20, 2005. -- Amended 2002 Ky. Acts ch. 25, sec. 6, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 163, sec. 6, effective July 14, 2000.

Legislative Research Commission Note ((3/20/2005)). KRS 393.015, the statute cited in subsection (9) of this section, was repealed by 2005 Ky. Acts ch. 173, Part XXI, sec. 2, effective March 20, 2005.

164A.708 Prepaid tuition contracts entered into before and after April 25, 2006 -- Obligations of the Commonwealth.

- (1) (a) All prepaid tuition contracts in existence on April 25, 2006, shall be supported by the full faith and credit of the Commonwealth.
- (b) If the report of the actuary submitted under KRS 164A.704(7) reflects that there will be a real liability expected to accrue for contracts in existence on April 25, 2006, during the next biennium, the secretary of the Finance and Administration Cabinet shall include in the budget request for the cabinet an appropriation to the board in an amount necessary to meet the real liability in each fiscal year of the biennium, and the General Assembly shall appropriate the necessary funds to meet the liability.
- (2) (a) New contracts entered into after April 25, 2006, for a tuition plan approved by the board shall contain actuarially sound premiums sufficient to prevent their contribution to a program fund deficit.
- (b) Payments received from contracts entered into after April 25, 2006, shall be maintained separately from contracts in existence on April 25, 2006.
- (c) The Commonwealth shall have no obligation to support contracts entered into after April 25, 2006, with appropriations if a shortfall occurs.

Effective: April 25, 2006

History: Created 2006 Ky. Acts ch. 252, Pt. XXXI, sec. 2, effective April 25, 2006.

164A.709 Termination of prepaid tuition contract or account -- Transfer of funds.

- (1) A purchaser may terminate a prepaid tuition contract at any time upon written request to the office.
- (2) Upon termination of a prepaid tuition contract at the request of a purchaser, the office shall pay from the fund to the purchaser:
 - (a) The value of the prepaid tuition account if the contract is terminated for:
 1. The death of the qualified beneficiary; or
 2. The disability of the qualified beneficiary that, in the opinion of the office, would make attendance by the beneficiary at an eligible educational institution impossible or unreasonably burdensome; or
 3. A request made on or after July 1 of the initial projected year of enrollment of the qualified beneficiary; and
 - (b) The amounts paid on the purchaser's prepaid tuition contract if the contract is terminated and a request for refund is made before July 1 of the qualified beneficiary's initial projected year of enrollment. The board may determine a rate of interest to accrue for payment on the amount otherwise payable under this paragraph.
- (3) At the option of the purchaser, the value of the prepaid tuition account may be carried forward to another academic year or distributed by the fund upon the purchaser's request.
- (4) All refunds paid shall be net of administrative fees as determined by the board. The office may impose a fee upon termination of the account for administrative costs and deduct the fee from the amount otherwise payable under this section.
- (5) If a qualified beneficiary is awarded a scholarship that covers tuition costs included in a prepaid tuition contract, the purchaser may request a refund consisting of the amount of the value of the prepaid tuition account, not to exceed the amount of the scholarship.
- (6) If the purchaser wishes to transfer funds from the prepaid tuition account to the Kentucky Educational Savings Plan Trust, the purchaser may do so under administrative regulations promulgated by the board and the board of directors of the Kentucky Educational Savings Plan Trust under KRS 164A.325.
- (7) If the purchaser wishes to transfer funds from the prepaid tuition account to another qualified tuition program as defined in 26 U.S.C. sec. 529(b)(1), the purchaser may do so under administrative regulations promulgated by the board.
- (8) The board may terminate a prepaid tuition contract at any time due to the fraud or misrepresentation of a purchaser or qualified beneficiary with respect to the prepaid tuition contract.

Effective: April 25, 2006

History: Amended 2006 Ky. Acts ch. 252, Pt. XXXI, sec. 7, effective April 25, 2006. -- Amended 2005 Ky. Acts ch. 162, sec. 8, effective July 1, 2005. -- Amended 2002 Ky. Acts ch. 25, sec. 7, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 163, sec. 7, effective July 14, 2000.