

**CHAPTER 90**  
**( SB 167 )**

AN ACT relating to reorganization.

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

→Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
  - (a) Secretary of State.
  - (b) Board of Elections.
  - (c) Registry of Election Finance.
- (4) Department of Law.
  - (a) Attorney General.
- (5) Department of the Treasury.
  - (a) Treasurer.
- (6) Department of Agriculture.
  - (a) Commissioner of Agriculture.
  - (b) Kentucky Council on Agriculture.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
  - (a) Department of Kentucky State Police.
  - (b) Department of Criminal Justice Training.
  - (c) Department of Corrections.
  - (d) Department of Juvenile Justice.
  - (e) Office of the Secretary.
  - (f) Office of Drug Control Policy.
  - (g) Office of Legal Services.
  - (h) Office of the Kentucky State Medical Examiner.
  - (i) Parole Board.

- (j) Kentucky State Corrections Commission.
- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Management and Administrative Services.
- (m) Department of Public Advocacy.
- (2) Education and Workforce Development Cabinet:
  - (a) Office of the Secretary.
    - 1. Governor's Scholars Program.
    - 2. Governor's School for Entrepreneurs Program.
  - (b) Office of Legal and Legislative Services.
    - 1. Client Assistance Program.
  - (c) Office of Communication.
  - (d) Office of Budget and Administration.
    - 1. Division of Human Resources.
    - 2. Division of Administrative Services.
  - (e) Office of Technology Services.
  - (f) Office of Educational Programs.
  - (g) Office for Education and Workforce Statistics.
  - (h) Board of the Kentucky Center for Education and Workforce Statistics.
  - (i) Board of Directors for the Center for School Safety.
  - (j) Department of Education.
    - 1. Kentucky Board of Education.
    - 2. Kentucky Technical Education Personnel Board.
  - (k) Department for Libraries and Archives.
  - (l) Department of Workforce Investment.
    - 1. Office for the Blind.
    - 2. Office of Vocational Rehabilitation.
    - 3. Office of Employment and Training.
      - a. Division of Grant Management and Support.
      - b. Division of Workforce and Employment Services.
      - c. Division of Unemployment Insurance.
  - (m) Foundation for Workforce Development.
  - (n) Kentucky Office for the Blind State Rehabilitation Council.
  - (o) Kentucky Workforce Investment Board.
  - (p) Statewide Council for Vocational Rehabilitation.
  - (q) Unemployment Insurance Commission.
  - (r) Education Professional Standards Board.
    - 1. Division of Educator Preparation.
    - 2. Division of Certification.
    - 3. Division of Professional Learning and Assessment.

4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
  - (a) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Legal Services.
      - a. Legal Division I.
      - b. Legal Division II.
    3. Office of Administrative Hearings.
    4. Office of Communication.
    5. Mine Safety Review Commission.
    6. Office of Kentucky Nature Preserves.
    7. Kentucky Public Service Commission.
  - (b) Department for Environmental Protection.
    1. Office of the Commissioner.
    2. Division for Air Quality.
    3. Division of Water.
    4. Division of Environmental Program Support.
    5. Division of Waste Management.
    6. Division of Enforcement.
    7. Division of Compliance Assistance.
  - (c) Department for Natural Resources.
    1. Office of the Commissioner.
    2. Division of Mine Permits.
    3. Division of Mine Reclamation and Enforcement.
    4. Division of Abandoned Mine Lands.
    5. Division of Oil and Gas.
    6. Division of Mine Safety.
    7. Division of Forestry.
    8. Division of Conservation.
    9. Office of the Reclamation Guaranty Fund.
  - (d) Office of Energy Policy.
    1. Division of Energy Assistance.
  - (e) Office of Administrative Services.
    1. Division of Human Resources Management.
    2. Division of Financial Management.

3. Division of Information Services.
- (4) Public Protection Cabinet.
  - (a) Office of the Secretary.
    1. Office of Communications and Public Outreach.
    2. Office of Legal Services.
      - a. Insurance Legal Division.
      - b. Charitable Gaming Legal Division.
      - c. Alcoholic Beverage Control Legal Division.
      - d. Housing, Buildings and Construction Legal Division.
      - e. Financial Institutions Legal Division.
      - f. Professional Licensing Legal Division.
    3. Office of Administrative Hearings.
    4. Office of Administrative Services.
      - a. Division of Human Resources.
      - b. Division of Fiscal Responsibility.
  - (b) Kentucky Claims Commission.
  - (c) Kentucky Boxing and Wrestling Commission.
  - (d) Kentucky Horse Racing Commission.
    1. Office of Executive Director.
      - a. Division of Pari-mutuel Wagering and Compliance.
      - b. Division of Stewards.
      - c. Division of Licensing.
      - d. Division of Enforcement.
      - e. Division of Incentives and Development.
      - f. Division of Veterinary Services.
  - (e) Department of Alcoholic Beverage Control.
    1. Division of Distilled Spirits.
    2. Division of Malt Beverages.
    3. Division of Enforcement.
  - (f) Department of Charitable Gaming.
    1. Division of Licensing and Compliance.
    2. Division of Enforcement.
  - (g) Department of Financial Institutions.
    1. Division of Depository Institutions.
    2. Division of Non-Depository Institutions.
    3. Division of Securities.
  - (h) Department of Housing, Buildings and Construction.
    1. Division of Fire Prevention.
    2. Division of Plumbing.

3. Division of Heating, Ventilation, and Air Conditioning.
4. Division of Building Code Enforcement.
- (i) Department of Insurance.
  1. Division of Insurance Product Regulation.
  2. Division of Administrative Services.
  3. Division of Financial Standards and Examination.
  4. Division of Agent Licensing.
  5. Division of Insurance Fraud Investigation.
  6. Division of Consumer Protection.
  - ~~7. Division of Kentucky Access.~~
- (j) Department of Professional Licensing.
  1. Real Estate Authority.
- (5) Labor Cabinet.
  - (a) Office of the Secretary.
    1. Office of General Counsel.
      - a. Workplace Standards Legal Division.
      - b. Workers' Claims Legal Division.
    2. Office of Administrative Services.
      - a. Division of Human Resources Management.
      - b. Division of Fiscal Management.
      - c. Division of Professional Development and Organizational Management.
      - d. Division of Information Technology and Support Services.
    3. Office of Inspector General.
  - (b) Department of Workplace Standards.
    1. Division of Apprenticeship.
    2. Division of Occupational Safety and Health Compliance.
    3. Division of Occupational Safety and Health Education and Training.
    4. Division of Wages and Hours.
  - (c) Department of Workers' Claims.
    1. Division of Workers' Compensation Funds.
    2. Office of Administrative Law Judges.
    3. Division of Claims Processing.
    4. Division of Security and Compliance.
    5. Division of Information Services.
    6. Division of Specialist and Medical Services.
    7. Workers' Compensation Board.
  - (d) Workers' Compensation Funding Commission.
  - (e) Occupational Safety and Health Standards Board.

- (f) Apprenticeship and Training Council.
  - (g) State Labor Relations Board.
  - (h) Employers' Mutual Insurance Authority.
  - (i) Kentucky Occupational Safety and Health Review Commission.
  - (j) Workers' Compensation Nominating Committee.
- (6) Transportation Cabinet:
- (a) Department of Highways.
    - 1. Office of Project Development.
    - 2. Office of Project Delivery and Preservation.
    - 3. Office of Highway Safety.
    - 4. Highway District Offices One through Twelve.
  - (b) Department of Vehicle Regulation.
  - (c) Department of Aviation.
  - (d) Department of Rural and Municipal Aid.
    - 1. Office of Local Programs.
    - 2. Office of Rural and Secondary Roads.
  - (e) Office of the Secretary.
    - 1. Office of Public Affairs.
    - 2. Office for Civil Rights and Small Business Development.
    - 3. Office of Budget and Fiscal Management.
    - 4. Office of Inspector General.
  - (f) Office of Support Services.
  - (g) Office of Transportation Delivery.
  - (h) Office of Audits.
  - (i) Office of Human Resource Management.
  - (j) Office of Information Technology.
  - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
- (a) Office of the Secretary.
    - 1. Office of Legal Services.
    - 2. Department for Business Development.
    - 3. Department for Financial Services.
      - a. Kentucky Economic Development Finance Authority.
      - b. Finance and Personnel Division.
      - c. IT and Resource Management Division.
      - d. Compliance Division.
      - e. Incentive Administration Division.
      - f. Bluegrass State Skills Corporation.
    - 4. Office of Marketing and Public Affairs.

- a. Communications Division.
  - b. Graphics Design Division.
  - 5. Office of Workforce, Community Development, and Research.
  - 6. Office of Entrepreneurship.
    - a. Commission on Small Business Advocacy.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
    - 1. *Office of Health Data and Analytics.*
    - 2. *Office of the Ombudsman and Administrative Review.*
    - 3. *Office of Public Affairs.*
    - ~~{(b)} Office of Health Policy.~~
    - 4.~~{(e)}~~ Office of Legal Services.
    - 5.~~{(d)}~~ Office of Inspector General.
    - ~~{(e)} Office of Communications and Administrative Review.~~
    - ~~{(f)} Office of the Ombudsman.~~
    - ~~(b){(g)}~~ Office of Finance and Budget.
    - ~~(c){(h)}~~ Office of Human Resource Management.
    - (d) Office of Administrative Services.*
    - (e) Office of Application Technology Services.*
    - ~~{(i)} Office of Administrative and Technology Services.~~
    - ~~(f){(j)}~~ Department for Public Health.
    - ~~(g){(k)}~~ Department for Medicaid Services.
    - ~~(h){(l)}~~ Department for Behavioral Health, Developmental and Intellectual Disabilities.
    - ~~(i){(m)}~~ Department for Aging and Independent Living.
    - ~~(j){(n)}~~ Department for Community Based Services.
    - ~~(k){(o)}~~ Department for Income Support.
    - ~~(l){(p)}~~ Department for Family Resource Centers and Volunteer Services.
    - ~~(m){(q)}~~ Office for Children with Special Health Care Needs.
    - ~~(n){(r)} Governor's Office of Electronic Health Information.~~
    - ~~(s)}~~ Office of Legislative and Regulatory Affairs.
- (9) Finance and Administration Cabinet:
- (a) Office of the Secretary.
  - (b) Office of the Inspector General.
  - (c) Office of Legislative and Intergovernmental Affairs.
  - (d) Office of General Counsel.
  - (e) Office of the Controller.
  - (f) Office of Administrative Services.
  - (g) Office of Policy and Audit.

- (h) Department for Facilities and Support Services.
  - (i) Department of Revenue.
  - (j) Commonwealth Office of Technology.
  - (k) State Property and Buildings Commission.
  - (l) Office of Equal Employment Opportunity and Contract Compliance.
  - (m) Kentucky Employees Retirement Systems.
  - (n) Commonwealth Credit Union.
  - (o) State Investment Commission.
  - (p) Kentucky Housing Corporation.
  - (q) Kentucky Local Correctional Facilities Construction Authority.
  - (r) Kentucky Turnpike Authority.
  - (s) Historic Properties Advisory Commission.
  - (t) Kentucky Tobacco Settlement Trust Corporation.
  - (u) Kentucky Higher Education Assistance Authority.
  - (v) Kentucky River Authority.
  - (w) Kentucky Teachers' Retirement System Board of Trustees.
  - (x) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Tourism.
    - 1. Division of Tourism Services.
    - 2. Division of Marketing and Administration.
    - 3. Division of Communications and Promotions.
  - (b) Kentucky Department of Parks.
    - 1. Division of Information Technology.
    - 2. Division of Human Resources.
    - 3. Division of Financial Operations.
    - 4. Division of Facilities Management.
    - 5. Division of Facilities Maintenance.
    - 6. Division of Customer Services.
    - 7. Division of Recreation.
    - 8. Division of Golf Courses.
    - 9. Division of Food Services.
    - 10. Division of Rangers.
    - 11. Division of Resort Parks.
    - 12. Division of Recreational Parks and Historic Sites.
  - (c) Department of Fish and Wildlife Resources.
    - 1. Division of Law Enforcement.
    - 2. Division of Administrative Services.
    - 3. Division of Engineering, Infrastructure, and Technology.



4. Division of Fisheries.
  5. Division of Information and Education.
  6. Division of Wildlife.
  7. Division of Marketing.
- (d) Kentucky Horse Park.
1. Division of Support Services.
  2. Division of Buildings and Grounds.
  3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
  2. Office of Human Resources and Access Control.
  3. Division of Expositions.
  4. Division of Kentucky Exposition Center Operations.
  5. Division of Kentucky International Convention Center.
  6. Division of Public Relations and Media.
  7. Division of Venue Services.
  8. Division of Personnel Management and Staff Development.
  9. Division of Sales.
  10. Division of Security and Traffic Control.
  11. Division of Information Technology.
  12. Division of the Louisville Arena.
  13. Division of Fiscal and Contract Management.
  14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
  2. Office of Government Relations and Administration.
  3. Office of Film and Tourism Development.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Arts and Cultural Heritage.
- (k) Kentucky African-American Heritage Commission.
- (l) Kentucky Foundation for the Arts.
- (m) Kentucky Humanities Council.
- (n) Kentucky Heritage Council.
- (o) Kentucky Arts Council.
- (p) Kentucky Historical Society.
1. Division of Museums.

2. Division of Oral History and Educational Outreach.
  3. Division of Research and Publications.
  4. Division of Administration.
- (q) Kentucky Center for the Arts.
    1. Division of Governor's School for the Arts.
  - (r) Kentucky Artisans Center at Berea.
  - (s) Northern Kentucky Convention Center.
  - (t) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
- (a) Office of the Secretary.
  - (b) Department of Human Resources Administration.
  - (c) Office of Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Governmental Services Center.
  - (h) Department of Employee Insurance.
  - (i) Office of Diversity, Equality, and Training.
  - (j) Office of Public Affairs.
- III. Other departments headed by appointed officers:
- (1) Council on Postsecondary Education.
  - (2) Department of Military Affairs.
  - (3) Department for Local Government.
  - (4) Kentucky Commission on Human Rights.
  - (5) Kentucky Commission on Women.
  - (6) Department of Veterans' Affairs.
  - (7) Kentucky Commission on Military Affairs.
  - (8) Office of Minority Empowerment.
  - (9) Governor's Council on Wellness and Physical Activity.
  - (10) Kentucky Communications Network Authority.
- ➔Section 2. KRS 13B.020 is amended to read as follows:
- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
  - (2) The provisions of this chapter shall not apply to:
    - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
    - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

- (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
  - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
  - (e) Administrative hearings conducted by the legislative and judicial branches of state government;
  - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
  - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
  - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
  - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
  - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
  - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
    - 1. Higher Education Assistance Authority
      - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
      - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
    - 2. Department of Revenue
      - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
      - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
  - (b) Cabinet for Health and Family Services
    - 1. Office of *the Inspector General* ~~(Health Policy)~~
      - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
      - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
    - 2. Department for Community Based Services
      - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
    - 3. Department for Income Support
      - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
    - 4. Department for Medicaid Services
      - a. Administrative appeal hearings following an external independent third-party review of a Medicaid managed care organization's final decision that denies, in whole or in part, a health care service to an enrollee or a claim for reimbursement to the provider for a health care service rendered by the provider to an enrollee of the Medicaid managed care organization, conducted under authority of KRS 205.646
  - (c) Justice and Public Safety Cabinet

1. Department of Kentucky State Police
    - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
  2. Department of Corrections
    - a. Parole Board hearings conducted under authority of KRS Chapter 439
    - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
    - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
  3. Department of Juvenile Justice
    - a. Supervised placement revocation hearings conducted under KRS Chapter 635
- (d) Energy and Environment Cabinet
1. Department for Natural Resources
    - a. Surface mining hearings conducted under authority of KRS Chapter 350
    - b. Oil and gas hearings conducted under the authority of KRS Chapter 353, except for those conducted by the Kentucky Oil and Gas Conservation Commission pursuant to KRS 353.500 to 353.720
    - c. Explosives and blasting hearings conducted under the authority of KRS 351.315 to 351.375
  2. Department for Environmental Protection
    - a. Wild River hearings conducted under authority of KRS Chapter 146
    - b. Water resources hearings conducted under authority of KRS Chapter 151
    - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
    - d. Environmental protection hearings conducted under authority of KRS Chapter 224
    - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
  3. Public Service Commission
    - a. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Labor Cabinet
1. Department of Workers' Claims
    - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
  2. Kentucky Occupational Safety and Health Review Commission
    - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
- (f) Public Protection Cabinet
1. Kentucky Claims Commission
    - a. Liability hearings conducted under authority of KRS 49.020(1) and 49.040 to 49.180
- (g) Education and Workforce Development Cabinet
1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (h) Secretary of State
1. Registry of Election Finance
    - a. Campaign finance hearings conducted under authority of KRS Chapter 121

- (i) State universities and colleges
  - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
  - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
  - 3. Campus residency hearings conducted under authority of KRS Chapter 164
  - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
  - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
  - (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
  - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
  - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.
- (7) The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings held under KRS 11A.100 or 18A.095.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *The Division of Health Benefit Exchange shall administer the provisions of the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148.*
- (2) *The Division of Health Benefit Exchange shall:*
  - (a) *Facilitate enrollment in health coverage and the purchase and sale of qualified health plans in the individual market;*
  - (b) *Facilitate the ability of eligible individuals to receive premium tax credits and cost-sharing reductions and enable eligible small businesses to receive tax credits, in compliance with all applicable federal and state laws and regulations;*
  - (c) *Oversee the consumer assistance programs of navigators, in-person assisters, certified application counselors, and insurance agents as appropriate;*
  - (d) *At a minimum, carry out the functions and responsibilities required pursuant to 42 U.S.C. sec. 18031 to implement and comply with federal regulations in accordance with 42 U.S.C. sec. 18041; and*
  - (e) *Regularly consult with stakeholders in accordance with 45 C.F.R. sec. 155.130.*

- (3) *The office may enter into contracts and other agreements with appropriate entities, including but not limited to federal, state, and local agencies, as permitted under 45 C.F.R. sec. 155.110, to the extent necessary to carry out the duties and responsibilities of the office, provided that the agreements incorporate adequate protections with respect to the confidentiality of any information to be shared.*
- (4) *The office shall pursue all available federal funding for the further development and operation of the Division of Health Benefit Exchange.*
- (5) *The Office of Health Data and Analytics shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.*
- (6) *The office shall not establish procedures and rules that conflict with or prevent the application of the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *The Division of Analytics is hereby created in the Office of Health Data and Analytics. The division shall provide oversight and strategic direction and be responsible for coordinating the data analysis initiatives for the various departments that regulate health care and social services to ensure that policy is consistent with the long-term goals across the Commonwealth.*
- (2) *The division shall have the authority to review all data requests received by the cabinet from the public, review the requests for content to determine the cabinet's response, and approve the release of the requested information. The division shall review data analyses conducted by the departments within the cabinet to ensure the consistency, quality, and validity of the analysis prior to its use in operational and policy decisions. The division shall facilitate the process of data integration by initiating and maintaining data-sharing agreements in order to improve inter-agency and cross-cabinet collaboration.*
- (3) *The Office of Health Data and Analytics shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

- (1) *The Division of Health Information is hereby created in the Office of Health Data and Analytics. The division shall provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services.*
- (2) *The Office of Health Data and Analytics shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this section.*

➔Section 6. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of *the Ombudsman*~~[Communications]~~ and Administrative Review, an Office of Legal Services, an Office of Inspector General, an Office of *Public Affairs*~~[the Ombudsman]~~, and *an Office of Health Data and Analytics*, ~~as follows: [the Governor's Office of Electronic Health Information.]~~
  - (a) The Office of *the Ombudsman*~~[Communications]~~ and Administrative Review shall *be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and shall:*
    1. *Investigate, upon complaint or on its own initiative, any administrative act of an organizational unit, employee, or contractor of the cabinet, without regard to the finality of the administrative act. Organizational units, employees, or contractors of the cabinet shall not willfully obstruct an investigation, restrict access to records or personnel, or retaliate against a complainant or cabinet employee;*
    2. *Make recommendations that resolve citizen complaints and improve governmental performance and may require corrective action when policy violations are identified;*
    3. *Provide evaluation and information analysis of cabinet performance and compliance with state and federal law;*
    4. *Place an emphasis on research and best practices, program accountability, quality service delivery, and improved governmental performance;*

5. *Provide information on how to contact the office for public posting at all offices where Department for Community Based Services employees or contractors work, at any facility where a child in the custody of the cabinet resides, and to all cabinet or contracted foster parents;*
  6. *Report to the Office of Inspector General any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties; or any violation of state law or administrative regulation by any organization or individual regulated by, or contracted with the cabinet;*
  7. *Compile a report of all citizen complaints about programs or services of the cabinet and a summary of resolution of the complaints and submit the report upon request to the Child Welfare Oversight and Advisory Committee established in KRS 6.943 and the Interim Joint Committee on Health and Welfare and Family Services; and*
  8. ~~Include oversight of administrative hearings; and communications with internal and external audiences of the cabinet. The Office of Communications and Administrative Review shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.~~
- (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105; ~~and~~
- (c) ***The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary.*** The Office of Inspector General shall be responsible for:
1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
  2. Licensing and regulatory functions as the secretary may delegate;
  3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963; ~~and~~
  4. ***The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeals functions, pursuant to KRS Chapter 216B; and***
  5. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority; ~~and~~
- (d) ***The Office of Health Data and Analytics shall be headed by an executive director appointed by the secretary with the approval of the Governor. The Office of Health Data and Analytics shall:***
1. ***Be responsible for:***
    - a. ***The Division of Health Benefit Exchange;***
    - b. ***The Division of Health Information; and***
    - c. ***The Division of Analytics;***
  2. ***Identify and innovate strategic initiatives to inform public policy initiatives and provide opportunities for improving the health outcomes of all Kentuckians through data analytics;***

3. *Provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services; and*
4. *Facilitate the purchase of individual and small business health insurance coverage for Kentuckians*

~~[The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary.]~~

~~(d) The Governor's Office of Electronic Health Information shall provide leadership in the redesign of the health care delivery system using electronic information technology as a means to improve patient care and reduce medical errors and duplicative services. The Governor's Office of Electronic Health Information shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;~~

- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. This shall include but not be limited to oversight of the Division of Women's Health. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall develop and administer programs for the prevention of mental illness, intellectual disabilities, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have an intellectual disability, brain injury, developmental disability, or a substance abuse disorder. The Department for Behavioral Health, Developmental and Intellectual Disabilities shall be headed by a commissioner for behavioral health, developmental and intellectual disabilities who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for behavioral health, developmental and intellectual disabilities shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for behavioral health, developmental and intellectual disabilities shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;
- (5) Office for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the office. The office shall advocate the rights of children with disabilities and, to the extent that funds are available, shall ensure the administration of services for children with disabilities as are deemed appropriate by this office pursuant to Title V of the Social Security Act. The office may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Office for Children with Special Health Care Needs shall be performed through the office of the executive director. The executive director shall be appointed by the secretary with the approval of the Governor under KRS 12.050;



- (6) ~~{Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate health care policy, including Medicaid, behavioral health, developmental and intellectual disabilities, mental health services, services for individuals with an intellectual disability, public health, certificate of need, and health insurance. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office. The Office of Health Policy shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050;~~
- (7) ~~Department for Family Resource Centers and Volunteer Services. The Department for Family Resource Centers and Volunteer Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the Division of Family Resource and Youth Services Centers and Serve Kentucky. The Department for Family Resource Centers and Volunteer Services shall be headed by a commissioner who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for family resource centers and volunteer services shall be by training and experience in administration and management qualified to perform the duties of the office, shall exercise authority over the department under the direction of the secretary, and shall only fulfill those responsibilities as delegated by the secretary;~~
- (7) ***The Office of Administrative Services shall provide central review and oversight of procurement, general accounting to include grant monitoring, and facility management for cabinet. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;***
- (8) ***The Office of Application Technology Services shall provide application technology services including central review and oversight. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050***
- ~~{(8) Office of Administrative and Technology Services. The Office of Administrative and Technology Services shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The office shall have responsibility for properties and facilities owned, maintained, or managed by the cabinet. The Office of Administrative and Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall exercise authority over the Office of Administrative and Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary};~~
- (9) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (10) The Office of Finance and Budget shall provide central review and oversight of budget, contracts, and cabinet finances. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (11) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, violence prevention resources, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (12) Department for Income Support. The Department for Income Support shall be responsible for child support enforcement and disability determination. The department shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security

Administration. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

- (13) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of adult day care and assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, the Institute on Aging, and guardianship services. The department shall also administer the Long-Term Care Ombudsman Program and the Medicaid Home and Community Based Waivers Consumer Directed Option (CDO) Program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; *and*
- (14) The Office of Legislative and Regulatory Affairs shall provide central review and oversight of legislation, policy, and administrative regulations. The office shall provide coordination, assistance, and support to program departments and independent review and analysis on behalf of the secretary. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; *and*
- ~~(15) The Office of the Ombudsman shall investigate, upon complaint or on its own initiative, any administrative act of an agency, employee, or contractor of the cabinet, without regard to the finality of the administrative act. Agencies, employees, or contractors shall not restrict access to records or personnel. The Office of the Ombudsman shall make recommendations that resolve citizen complaints and improve governmental performance, and may request corrective action when policy violations are noted. The Office of the Ombudsman shall provide evaluation and information analysis of cabinet performance and compliance with state and federal policy. The Office of the Ombudsman shall place an emphasis on research and best practices, program accountability, quality service delivery, and improved governmental performance. The Office of the Ombudsman shall ensure that information relating to how to contact the office shall be publicly posted at all facilities where agency employees or contractors work, publicly posted at any facility where a child in the custody of the cabinet resides or is treated, and given to all cabinet or contracted foster parents. The Office of the Ombudsman shall report to the Office of Inspector General any charge or case against an employee of the Cabinet for Health and Family Services where it has cause to believe the employee has engaged in dishonest, unethical, or illegal conduct or practices related to his or her job duties. The Office of the Ombudsman shall compile a report of all citizen complaints about programs or services of the cabinet and a summary of resolution of the complaints and shall submit the report by December 1 of each year to the Child Welfare Oversight and Advisory Committee established in KRS 6.943 and the Interim Joint Committee on Health and Welfare and Family Services. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050].~~

➔Section 7. KRS 211.751 is amended to read as follows:

The Department for Medicaid Services, the Department for Public Health, the Office of Health *Data and Analytics*~~[Policy]~~, and the Personnel Cabinet shall collaborate to identify goals and benchmarks while also developing individual entity plans to reduce the incidence of diabetes in Kentucky, improve diabetes care, and control complications associated with diabetes.

➔Section 8. KRS 211.752 is amended to read as follows:

The Department for Medicaid Services, the Department for Public Health, the Office of Health *Data and Analytics*~~[Policy]~~, and the Personnel Cabinet shall submit a report to the Legislative Research Commission by January 10 of each odd-numbered year on the following:

- (1) The financial impact and reach diabetes of all types is having on the entity, the Commonwealth, and localities. Items included in this assessment shall include the number of lives with diabetes impacted or covered by the entity, the number of lives with diabetes and family members impacted by prevention and diabetes control programs implemented by the entity, the financial toll or impact diabetes and its complications places on the program, and the financial toll or impact diabetes and its complications places on the program in comparison to other chronic diseases and conditions;

- (2) An assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease. This assessment shall also document the amount and source for any funding directed to the agency or entity from the Kentucky General Assembly for programs and activities aimed at reaching those with diabetes;
- (3) A description of the level of coordination existing between the entities on activities, programmatic activities, and messaging on managing, treating, or preventing all forms of diabetes and its complications;
- (4) The development or revision of detailed action plans for battling diabetes with a range of actionable items for consideration by the General Assembly. The plans shall identify proposed action steps to reduce the impact of diabetes, prediabetes, and related diabetes complications. The plan shall also identify expected outcomes of the action steps proposed in the following biennium while also establishing benchmarks for controlling and preventing relevant forms of diabetes; and
- (5) The development of a detailed budget blueprint identifying needs, costs, and resources required to implement the plan identified in subsection (4) of this section. This blueprint shall include a budget range for all options presented in the plan identified in subsection (4) of this section for consideration by the General Assembly.

➔Section 9. KRS 217C.070 is amended to read as follows:

- (1) The secretary for health and family services shall appoint a ~~grade A~~ milk advisory committee composed of eight (8) appointive members. Three (3) members shall be processors, or representatives thereof; three (3) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of consumers.
- (2) ~~The secretary for health and family services shall appoint a milk for manufacturing advisory committee composed of eight (8) appointive members. Four (4) members shall be processors, or representatives thereof; two (2) members shall be producers, or representatives thereof; and two (2) members shall be citizens at large, as representatives of consumers.~~
- (3) ~~The secretary for health and family services or his designated representative shall be an ex officio member and secretary of the ~~each~~ committee. The appointments to the ~~each~~ committee shall be made for a term of four (4) years, or until their successors are appointed and qualify, except that the terms of office of the members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, two (2) members shall be appointed for two (2) years, two (2) members shall be appointed for three (3) years and two (2) members shall be appointed for four (4) years and the respective terms of the first members shall be designated by the secretary for health and family services at the time of their appointment. Such members shall serve without compensation but may be reimbursed for necessary traveling expenses. Procedures for selection of advisory nominees shall be in accordance with the regulations of the secretary.~~

➔Section 10. KRS 304.17A-080 is amended to read as follows:

- (1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of **ten (10)** ~~nine (9)~~ members: the commissioner plus **nine (9)** ~~eight (8)~~ persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.
- (2) The **nine (9)** ~~eight (8)~~ persons appointed by the Governor with the advice of the commissioner shall be:
  - (a) Two (2) representatives of insurers currently offering health benefit plans in the state;
  - (b) Two (2) practicing health care providers;
  - (c) Two (2) representatives of purchasers of health benefit plans; ~~and~~
  - (d) Two (2) representatives of agents; **and**
  - (e) **One (1) representative from the Division of Health Benefit Exchange.**
- (3) The council shall:
  - (a) Review and discuss the design of the standard health benefit plan;
  - (b) Review and discuss the rate-filing process for all health benefit plans;

- (c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;
  - (d) Make recommendations on high-cost conditions as provided in KRS 304.17B-033;
  - (e) ~~Advise the Department of Insurance concerning the Department of Insurance's separation plan for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access;~~
  - ~~(f)~~ Review and discuss issues that impact Kentucky Access; and
  - ~~(f)(g)~~ Review and discuss other issues at the request of the commissioner.
- (4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

➔ Section 11. KRS 304.17B-001 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

- (1) "Administrator" is defined in KRS 304.9-051(1);
- (2) "Agent" is defined in KRS 304.9-020;
- (3) "Assessment process" means the process of assessing and allocating guaranteed acceptance program losses or Kentucky Access funding as provided for in KRS 304.17B-021;
- (4) "Authority" means the Kentucky Health Care Improvement Authority;
- (5) "Case management" means a process for identifying an enrollee with specific health care needs and interacting with the enrollee and their respective health care providers in order to facilitate the development and implementation of a plan that efficiently uses health care resources to achieve optimum health outcome;
- (6) "Commissioner" is defined in KRS 304.1-050(1);
- (7) "Department" is defined in KRS 304.1-050(2);
- (8) "Earned premium" means the portion of premium paid by an insured that has been allocated to the insurer's loss experience, expenses, and profit year to date;
- (9) "Enrollee" means a person who is enrolled in a health benefit plan offered under Kentucky Access;
- (10) "Eligible individual" is defined in KRS 304.17A-005(11);
- (11) "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (12) "Guaranteed acceptance program participating insurer" means an insurer that offered health benefit plans through December 31, 2000, in the individual market to guaranteed acceptance program qualified individuals;
- (13) "Health benefit plan" is defined in KRS 304.17A-005(22);
- (14) "High-cost condition" means acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the bronchus, malignant neoplasm of the lung, malignant neoplasm of the colon, short gestation period for a newborn child, and low birth weight of a newborn child;
- (15) "Incurred losses" means for Kentucky Access the excess of claims paid over premiums received;
- (16) "Insurer" is defined in KRS 304.17A-005(27);
- (17) "Kentucky Access" means the program established in accordance with KRS 304.17B-001 to 304.17B-031;
- (18) "Kentucky Access Fund" means the fund established in KRS 304.17B-021;

- (19) "Kentucky Health Care Improvement Authority" means the board established to administer the program initiatives listed in KRS 304.17B-003(5);
- (20) "Kentucky Health Care Improvement Fund" means the fund established for receipt of the Kentucky tobacco master settlement moneys for program initiatives listed in KRS 304.17B-003(5);
- (21) "MARS" means the Management Administrative Reporting System administered by the Commonwealth;
- (22) "Medicaid" means coverage in accordance with Title XIX of the Social Security Act, 42 U.S.C. secs. 1396 et seq., as amended;
- (23) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;
- (24) **"Office" means the Office of Health Data and Analytics in the Cabinet for Health and Family Services;**
- (25) "Pre-existing condition exclusion" is defined in KRS 304.17A-220(6);
- (26)~~(25)~~ "Standard health benefit plan" means a health benefit plan that meets the requirements of KRS 304.17A-250;
- (27)~~(26)~~ "Stop-loss carrier" means any person providing stop-loss health insurance coverage;
- (28)~~(27)~~ "Supporting insurer" means all insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations; and
- (29)~~(28)~~ "Utilization management" is defined in KRS 304.17A-500(12).

➔Section 12. KRS 304.17B-003 is amended to read as follows:

- (1) There is hereby established the Kentucky Health Care Improvement Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all the powers, duties, and responsibilities conferred upon it by statute and necessary or convenient to carry out its functions. The authority shall be administered by a board of fifteen (15) members and is created to perform the public functions of administering programs financed by the funds appropriated to the authority in conformance with KRS 304.17B-001 to 304.17B-031 and any terms and conditions established by the General Assembly as a part of the act appropriating the funds. The members of the board shall consist of the following:
- The ~~secretary~~~~commissioner~~ of the **Cabinet for Health and Family Services**~~Department of Insurance~~, or the ~~secretary's~~~~commissioner's~~ designated representative, who shall serve as chair;
  - The **commissioner of the Department of Insurance**~~secretary of the Cabinet for Health and Family Services~~, or the ~~commissioner's~~~~secretary's~~ designated representative, who shall serve as vice chair;
  - Two (2) nonvoting members serving ex officio from the House of Representatives, one (1) of whom shall be appointed by the Speaker of the House and one (1) appointed by the minority floor leader, and who shall serve a term of two (2) years;
  - Two (2) nonvoting members serving ex officio from the Senate, one (1) of whom shall be appointed by the President of the Senate and one (1) appointed by the minority floor leader, and who shall serve a term of two (2) years;
  - The deans of the University of Louisville School of Medicine and the University of Kentucky College of Medicine, or their designated representatives;
  - The commissioner of the Department for Public Health, or the commissioner's designated representative;
  - Two (2) representatives of Kentucky health care providers, who shall be appointed by the Governor; and
  - Four (4) citizens at large of the Commonwealth, who shall be appointed by the Governor.
- (2) The terms of office of the initial appointments of the citizen at-large members of the board shall expire one (1), two (2), three (3), and four (4) years respectively from the expiration date of the initial appointment. One (1) of the initial terms of the representatives of health care providers, at least one (1) of whom shall be male and at least one (1) of whom shall be female, shall be for two (2) years and one (1) shall be for four (4) years. All succeeding appointments shall be for four (4) years from the expiration date of the term of the initial

appointment. Two (2) of the citizens at large shall be male and two (2) shall be female. Board members shall serve until their successors are appointed.

- (3) In making private sector and citizen-at-large appointments to the board, the Governor shall assure broad geographical and ethnic representation as well as representation from consumers and the major sectors of Kentucky's health care and health insurance businesses. Private sector and citizen-at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.
- (4) The authority shall establish procedures for accountability, including the review of expenditures, and develop mechanisms to measure the success of programs that receive allocated funds in accordance with any criteria or instructions provided by the General Assembly. The authority shall be attached to the **Cabinet for Health and Family Services**~~[Department of Insurance]~~ for administrative purposes and shall establish advisory boards it deems appropriate, which shall consist of health insurance consumers, health care providers, and insurance company representatives, to assist with oversight of fund expenditures.
- (5) Grants and funds obtained under KRS 304.17B-001 to 304.17B-031 shall be used for expenditures as follows:
  - (a) Seventy percent (70%) of all moneys in the fund shall be placed into the Kentucky Access fund for the purpose of funding Kentucky Access;
  - (b) Twenty percent (20%) of all moneys in the fund shall be spent on a collaborative partnership between the University of Louisville and the University of Kentucky dedicated to lung cancer research; and
  - (c) Ten percent (10%) of all moneys in the fund shall be used to discourage the use of harmful substances by minors.
- (6) The authority shall ~~ensure~~~~[assure]~~ that a public hearing is held on the expenditure of funds allocated under this section, except for funds allocated to the Kentucky Access fund. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The authority shall submit an annual report to the Governor and the General Assembly indicating how the funds were used and an evaluation of the program's effectiveness in health care and access to health insurance for Kentucky residents.
- (7) Neither the authority nor its employees shall be liable for any obligations of any of the programs established under KRS 304.17B-001 to 304.17B-031. No member or employee of the authority shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under KRS 304.17B-001 to 304.17B-031, unless the act or omission constitutes willful or wanton misconduct. The authority may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.
- (8) The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 304.17B-001 to 304.17B-031, including, but not limited to, retaining the staff it deems necessary for the proper performance of its duties.
- (9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

➔Section 13. KRS 304.17B-005 is amended to read as follows:

- (1) There is hereby created Kentucky Access, which shall ensure that health coverage is made available to each Kentucky individual resident applying and qualifying for coverage. Any health coverage provided under this section shall begin no sooner than January 1, 2001. Kentucky Access is designed for the purpose of implementing an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health coverage allowed by federal law.
- (2) Kentucky Access shall operate under the Division of **Health Benefit Exchange in the Office of Health Data and Analytics, Cabinet for Health and Family Services**~~[Kentucky Access in the Department of Insurance]~~. The division shall be headed by a division director appointed by the secretary of the **Cabinet for Health and Family Services**~~[Public Protection Cabinet]~~ in accordance with KRS 12.050.
- (3) Neither the ~~office~~~~[department]~~ nor its employees shall be liable for any obligations of Kentucky Access. No member or employee of the ~~office~~~~[department]~~ shall be liable, and no cause of action of any nature may arise against them, for any act or omission related to the performance of their powers and duties under KRS 304.17B-001 to 304.17B-031, unless such act or omission constitutes willful or wanton misconduct. The

~~office[department]~~ may provide in its policies and procedures for indemnification of, and legal representation for, its members and employees.

➔Section 14. KRS 304.17B-007 is amended to read as follows:

In its duties to operate and administer Kentucky Access, the *Office of Health Data and Analytics*~~[department]~~ shall, through itself or designated agents:

- (1) Establish administrative and accounting procedures for the operation of Kentucky Access;
- (2) Enter into contracts as necessary;
- (3) Take legal action necessary:
  - (a) To avoid the payment of improper claims against Kentucky Access or the coverage provided by or through Kentucky Access;
  - (b) To recover any amounts erroneously or improperly paid by Kentucky Access;
  - (c) To recover any amounts paid by the Kentucky Access as a result of mistake of fact or law;
  - (d) To recover other amounts due Kentucky Access; or
  - (e) To operate and administer its obligations under the provisions of KRS 304.17B-001 to 304.17B-031;
- (4) Establish, and modify as appropriate, rates, rate schedules, rate adjustments, premium rates, expense allowances, claim reserve formulas, and any other actuarial function appropriate to the administration and operation of Kentucky Access. Premium rates and rate schedules may be adjusted for appropriate factors, including, but not limited to, age and sex, and shall take into consideration appropriate factors in accordance with established actuarial and underwriting practices;
- (5) Establish procedures under which applicants and participants in Kentucky Access shall have an internal grievance process and a mechanism for external review through an independent review organization in accordance with this chapter;
- (6) Select a third-party administrator in accordance with KRS 304.17B-011;
- (7) Require that all health benefit plans, riders, endorsements, or other forms and documents used to administer Kentucky Access meet the requirements of Subtitles 12, 14, 17, 17A, and 38 of this chapter;
- (8) Adopt nationally recognized uniform claim forms in accordance with this chapter;
- (9) Develop and implement a marketing strategy to publicize the existence of Kentucky Access, including, but not limited to, eligibility requirements, procedures for enrollment, premium rates, and a toll-free telephone number to call for questions;
- (10) Establish and review annually provider reimbursement rates that ensure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under Kentucky Access at least to the extent that such care and services are available to the general population. The ~~office[department]~~ shall only authorize contracts with health care providers that prohibit the provider from collecting from the enrollee any amounts in excess of copayment amounts, coinsurance amounts, deductible amounts, and amounts for noncovered services;
- (11) Conduct periodic audits to assure the general accuracy of the financial and claims data submitted to the ~~office[department]~~ and be subject to an annual audit of its operations;
- (12) Issue health benefit plans ~~[January 1, 2001, or thereafter,]~~ in accordance with the requirements of KRS 304.17B-001 to 304.17B-031;
- (13) Require a referral fee of fifty dollars (\$50) to be paid to agents who refer applicants who are subsequently enrolled in Kentucky Access. The referral fee shall be paid only on the initial enrollment of an applicant. Referral fees shall not be paid on any enrollments of enrollees who have been previously enrolled in Kentucky Access, or for renewals for enrollees;
- (14) Bill and collect premiums from enrollees in the amount determined by the ~~office[department]~~;
- (15) Assess insurers and stop-loss carriers in accordance with KRS 304.17B-021;
- (16) Reimburse GAP participating insurers for GAP losses pursuant to KRS 304.17B-021;

- (17) Establish a provider network for Kentucky Access by developing a statewide provider network or by contracting with an insurer for a statewide provider network. In the event the *office*{department} contracts with an insurer, the *office*{department} may take into consideration factors including, but not limited to, the size of the provider network, the composition of the provider network, and the current market rate of the provider network. The provider network shall be made available to the third-party administrator specified in KRS 304.17B-011 and shall be limited to Kentucky Access enrollees.
- (18) Be audited by the Auditor of Public Accounts;
- (19) By administrative regulation, amend the definition of high-cost conditions provided in KRS 304.17B-001 by adding other high-cost conditions; *and*
- (20) ~~{The department shall report on an annual basis to the Interim Joint Committee on Banking and Insurance the separation plan pursuant to KRS 304.17A-080 for the division of duties and responsibilities between the operation of the Department of Insurance and the operation of Kentucky Access; and~~
- (21) Any other actions as may be necessary and proper for the execution of the *office's*{department's} powers, duties, and obligations under KRS 304.17B-001 to 304.17B-031.

➔Section 15. KRS 304.17B-009 is amended to read as follows:

In its duties to operate and administer Kentucky Access, the *Office of Health Data and Analytics*{department} may, through itself or third parties:

- (1) Exercise any and all powers granted to insurers under this chapter; and
- (2) Sue or be sued.

➔Section 16. KRS 304.17B-011 is amended to read as follows:

- (1) The *Office of Health Data and Analytics*{department} shall select a third-party administrator, through the state competitive bidding process, to administer Kentucky Access. The third-party administrator shall be an administrator licensed by the department. The *office*{department} shall consider criteria in selecting a third-party administrator that shall include, but not be limited to, the following:
  - (a) A third-party administrator's proven ability to demonstrate performance of the operations of an insurer to include the following: enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, quality improvement, drug utilization review, premium billing and collection, claims payment, and data reporting;
  - (b) The total cost to administer Kentucky Access;
  - (c) A third-party administrator's proven ability to demonstrate that Kentucky Access shall be administered in a cost-efficient manner;
  - (d) A third-party administrator's proven ability to demonstrate experience in two (2) or more states administering a risk pool for a minimum of a three (3) year period; and
  - (e) A third-party administrator's financial condition and stability.
- (2) The *office*{department} may contract with the third-party administrator for a period of four (4) years with an option for a two (2) year extension as approved by the *office*{department} on a year-by-year contract basis. At least one (1) year prior to the expiration of the third-party administrator's contract, the *office*{department} may solicit third-party administrators, including the current third-party administrator, to submit bids to serve as the third-party administrator for the succeeding four (4) year period.
- (3) In addition to any duties and obligations set forth in the contract with the third-party administrator, the third-party administrator shall:
  - (a) Develop and establish policies and procedures for enrollee enrollment, eligibility determination, provider enrollment and credentialing, utilization management, case management, disease management, quality improvement, drug utilization review, premium billing and collection, data reporting, and other responsibilities determined by the *office*{department};
  - (b) Develop and establish policies and procedures for paying the agent referral fee under KRS 304.17B-001 to 304.17B-031;
  - (c) Develop and establish policies and procedures to ensure timely and efficient payment of claims to include, but not limited to, the following:



1. Develop and provide a claims billing manual to health care providers enrolled in Kentucky Access that includes information relating to the proper billing of a claim and the types of claim forms to use;
  2. Payment of all claims in accordance with the provisions of this chapter and the administrative regulations promulgated thereunder; and
  3. Notification to an enrollee through an explanation of benefits if a claim is denied or if there is enrollee financial responsibility of a paid claim for deductible or coinsurance amounts;
- (d) Issue denial letters under KRS 304.17A-540 for denial of preauthorization and precertification requests for medical necessity and medical appropriateness determinations;
- (e) Submit information to the *office and the* department under KRS 304.17A-330;
- (f) Submit reports to the *office*{department} regarding the operation and financial condition of Kentucky Access. The frequency, content, and form of the reports shall be determined by the *office*{department};
- (g) Submit an annual report to the *office*{department} three (3) months after the end of each calendar year. The annual report shall include:
1. Earned premium;
  2. Administrative expenses;
  3. Incurred losses for the year;
  4. Paid losses for the year;
  5. Number of enrollees enrolled in Kentucky Access by category of eligibility; and
  6. Any other information requested by the *office*{department}; and
- (h) Be subject to examination by the *office*{department} under Subtitles 2 and 3 of this chapter.
- (4) The third-party administrator shall be paid for necessary and reasonable expenses, as provided in the contract between the *office*{department} and the third-party administrator.

➔Section 17. KRS 304.17B-013 is amended to read as follows:

- (1) The schedule of rates, premium rates charged to enrollees, deductible amounts, copayment amounts, coinsurance amounts, and other cost-sharing amounts shall be established by the *Office of Health Data and Analytics*{department}. Premium rates charged to enrollees are not intended to fully cover the cost of providing health care coverage to Kentucky Access enrollees, and any claims in excess of premium rates shall be covered by the Kentucky Access fund.
- (2) Premium rates for health benefit plans provided under Kentucky Access shall bear a reasonable relationship to each other. Premium rates shall be varied based on age and gender. The initial premium rates for plan coverage shall not exceed one hundred fifty percent (150%) of the applicable individual standard risk rates, as established by the department. In no event shall premium rates exceed one hundred seventy-five percent (175%) of the rates applicable to individual standard risks.
- (3) Premium rates for coverage issued by Kentucky Access shall be established annually by the *office*{department}, using reasonable actuarial principles, and shall reflect anticipated experience and expenses for risks under Kentucky Access.

➔Section 18. KRS 304.17B-015 is amended to read as follows:

- (1) Any individual who is an eligible individual and a resident of Kentucky is eligible for coverage under Kentucky Access, except as specified in paragraphs (a), (b), (d), and (e) of subsection (4) of this section.
- (2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:
  - (a) The individual has been rejected by at least one (1) insurer for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

- (b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal; or
  - (c) The individual has a high-cost condition listed in KRS 304.17B-001.
- (3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.
- (4) An individual shall not be eligible for coverage under Kentucky Access if:
- (a) 1. The individual has, or is eligible for, on the effective date of coverage under Kentucky Access, substantially similar coverage under another contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to January 1, 2001. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section; or
  - 2. For individuals meeting the requirements of KRS 304.17A-005(11), the individual has, or is eligible for, on the effective date of coverage under Kentucky Access, coverage under a group health plan.

An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual and an individual's spouse or dependent who was eligible for coverage but waived that coverage. That individual and the individual's spouse or dependent shall be ineligible for Kentucky Access coverage through the period of waived coverage;

- (b) The individual is eligible for coverage under Medicaid or Medicare;
  - (c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;
  - (d) Except for covered benefits paid under the standard health benefit plan as specified in KRS 304.17B-019, Kentucky Access has paid two million dollars (\$2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the *office*~~department~~;
  - (e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs; or
  - (f) The individual's premium, deductible, coinsurance, or copayment is partially or entirely paid or reimbursed by an individual or entity other than the individual or the individual's parent, grandparent, spouse, child, stepchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, sibling, brother-in-law, sister-in-law, grandchild, guardian, or court-appointed payor.
- (5) The coverage of any person who ceases to meet the requirements of this section or the requirements of any administrative regulation promulgated under this subtitle may be terminated.

➔Section 19. KRS 304.17B-017 is amended to read as follows:

- (1) At least annually, the *Office of Health Data and Analytics*~~department~~ shall evaluate and revise as necessary rates to be charged to Kentucky Access enrollees.
- (2) Except as provided in KRS 304.17B-019, the *office*~~department~~ may revise its health benefit plans, cost-sharing arrangements, plan delivery rules, schedule of benefits, rates, and cost-containment features provided under Kentucky Access at the time of the health benefit plan renewal as necessary to ensure that Kentucky Access maintains adequate resources for continued operation.

➔Section 20. KRS 304.17B-019 is amended to read as follows:

- (1) Kentucky Access shall offer at least three (3) health benefit plans to enrollees, which shall be similar to the health benefit plans currently being marketed to individuals in the individual market.

- (2) At least one (1) plan shall be offered in a traditional fee-for-service form. At least one (1) plan may be offered in a managed-care form at such time as the *Office of Health Data and Analytics*~~{department}~~ can establish an appropriate provider network in available service areas.
- (3) The *office*~~{department}~~ shall provide for utilization review and case management for all health benefit plans issued under Kentucky Access.
- (4) The *office*~~{department}~~ shall review and compare health benefit plans provided under Kentucky Access to health benefit plans provided in the individual market. Based on the review, the *office*~~{department}~~ may amend or replace the health benefit plans issued under Kentucky Access.
- (5) Individuals who apply and are determined eligible for health benefit plans issued under Kentucky Access shall have coverage effective the first day of the month after the application month.
- (6) For eligible individuals, health benefit plans issued under Kentucky Access shall not impose any pre-existing condition exclusions. In all other cases, a pre-existing condition exclusion may be imposed in accordance with KRS 304.17A-230.
- (7) Health benefit plans issued under Kentucky Access shall be guaranteed renewable except as otherwise specified in KRS 304.17B-015 and KRS 304.17A-240.
- (8) All health benefit plans issued under Kentucky Access shall provide that, upon the death or divorce of the individual in whose name the contract was issued, every other person covered in the contract may elect within sixty-three (63) days to continue under the same or a different contract.
- (9) Health benefit plans issued under Kentucky Access shall coordinate benefits with other health benefit plans and be the payor of last resort.
- (10) Health benefit plans issued under Kentucky Access shall pay covered benefits up to a lifetime limit of two million dollars (\$2,000,000) per covered individual. The maximum limit under this subsection may be increased by the *office*~~{department}~~.

➔Section 21. KRS 304.17B-021 is amended to read as follows:

- (1) In addition to the other powers enumerated in KRS 304.17B-001 to 304.17B-031, the *Office of Health Data and Analytics*~~{department}~~ shall assess insurers in the amounts specified in this section. The assessment shall be used for the purpose of funding GAP losses and Kentucky Access.
  - (a) The amount of the assessment for each calendar year shall be as follows:
    1. From each stop-loss carrier, an amount that is equal to two dollars (\$2) upon each one hundred dollars (\$100) of health insurance stop-loss premiums;
    2. From all insurers, an amount based on the total amount of all health benefit plan premiums earned during the prior assessment period and paid by all insurers who received any of the health benefit plan premiums on which the annual assessment is based. The percentage rate used for the annual assessment shall be the same percentage rate as calculated in the GAP risk adjustment process for the six (6) month period of July 1, 1998, through December 31, 1998;
    3. If determined necessary by the *office*~~{department}~~, a second assessment may be assessed in the same manner as the annual assessment in subparagraph 2. of this paragraph; and
    4. In no event shall the sum of the first assessment provided for in subparagraph 2. of this paragraph and the second assessment provided for in subparagraph 3. of this paragraph be greater than one percent (1%) of the total amount of all assessable health benefit plan premiums earned during the prior assessment period.
  - (b) The first assessment shall be for the period from January 1, 2000, through December 31, 2000, and shall be paid on or before March 31, 2001. Subsequent annual assessments shall be paid on or before March 31 of the year following the assessment period.
- (2) Every supporting insurer shall report to the *office*~~{department}~~, in a form and at the time as the *office*~~{department}~~ may specify, the following information for the specified period:
  - (a) The insurer's total stop-loss premiums and health benefit plan premiums in the individual, small group, large group, and association markets; and

- (b) Other information as the *office*~~[department]~~ may require.
- (3) As part of the assessment process, the *office*~~[department]~~ shall establish and maintain the Kentucky Access fund. All funds shall be held at interest, in a single depository designated in accordance with KRS 304.8-090(1) under a written trust agreement in accordance with KRS 304.8-095. All expense and revenue transactions of the fund shall be posted to the Management Administrative Reporting System (MARS) and its successors.
- (4) The Kentucky Access fund shall be funded from the following sources:
- (a) Premiums paid by Kentucky Access enrollees;
  - (b) The funds designated for Kentucky Access in the Kentucky Health Care Improvement fund;
  - (c) Appropriations from the General Assembly;
  - (d) All premium taxes collected under KRS Chapter 136 from any insurer, and any retaliatory taxes collected under KRS 304.3-270 from any insurer, for accident and health premiums that are in excess of the amount of the premium taxes and retaliatory taxes collected for the calendar year 1997;
  - (e) Annual assessments from supporting insurers;
  - (f) A second assessment from supporting insurers;
  - (g) Gifts, grants, or other voluntary contributions;
  - (h) Interest or other earnings on the investment of the moneys held in the account; and
  - (i) Any funds remaining on January 1, 2001, in the guaranteed acceptance program account may be transferred to the Kentucky Access fund.
- (5) The *office*~~[department]~~ shall determine on behalf of Kentucky Access the premiums, the expenses for administration, the incurred losses, taking into account investment income and other amounts needed to satisfy reserves, estimated claim liabilities, and other obligations for each calendar year. The *office*~~[department]~~ shall also determine the amount of the actual guaranteed acceptance program plan losses for each calendar year. The *office*~~[department]~~ shall assess insurers as follows:
- (a) On or before March 31 of each year, the amount set forth in subsection (1)(a)1. and (1)(a)2. of this section.
  - (b) If the amount of actual guaranteed acceptance program plan losses exceeds the assessment provided for in paragraph (a) of this subsection, a second assessment shall be authorized under subsection (1)(a)3. of this section. If the amount of GAP losses exceeds the assessments provided under subsection (1)(a)1., subsection (1)(a)2., and subsection (1)(a)3. of this section, moneys received and available from the Kentucky Health Care Improvement Fund after the *office*~~[department]~~ determines available funding for Kentucky Access for the current calendar year pursuant to subsection (6) of this section, shall be used to reimburse GAP participating insurers for any actual guaranteed acceptance program losses. If the amount of GAP losses exceeds the amount in the Kentucky Health Care Improvement Fund after reserving sufficient funds for Kentucky Access for the current year, each GAP participating insurer shall be reimbursed up to the amount of its proportional share of actual guaranteed acceptance program plan losses from the fund. Effective for any assessment on or after January 1, 2001, in calculating GAP losses, total premiums and total claims of the GAP participating insurer shall be used. Actual guaranteed acceptance program losses shall be calculated as the difference between the total GAP claims and the total GAP premiums on an aggregate basis.
  - (c) If GAP losses are fully covered by the assessment process provided for in subsection (1)(a)1. and (1)(a)2. of this section and the second assessment provided for in subsection (1)(a)3. of this section is not necessary to cover GAP losses, and as determined by the *office*~~[department]~~ using reasonable actuarial principles Kentucky Access funding is needed, a second assessment provided for in subsection (1)(a)3. of this section shall be completed.
- (6) After the end of each calendar year, GAP losses shall be reimbursed only after the *office*~~[department]~~ determines that appropriate funding is available for Kentucky Access for the current calendar year. GAP losses shall be reimbursed after reserving sufficient funds for Kentucky Access.
- (7) With respect to a GAP participating insurer who reasonably will be expected both to pay assessments and to receive payments from the assessment fund, the *office*~~[department]~~ shall calculate the net amount owed to or

to be received from the fund, and the *office*~~[department]~~ shall only collect assessments for or make payments from the fund based upon net amounts.

- (8) Insurers paying an assessment may include in any health insurance rate filing the amount of these assessments as provided for in Subtitle 17A of this chapter.
- (9) Insurers shall pay any assessment amounts authorized in KRS 304.17B-001 to 304.17B-031 within thirty (30) days of receiving notice from the *office*~~[department]~~ of the assessment amount.
- (10) Any surpluses remaining in the Kentucky Access fund after completion of the assessment process for a calendar year shall be maintained for use in the assessment process for future calendar years and such funds shall not lapse. The general fund appropriations to the Kentucky Access fund shall not lapse.
- (11) Assessments on health benefit plan premiums that are required under KRS 304.17B-001 to 304.17B-031 shall not be applied to premiums received by an insurer for state employees, Medicaid recipients, Medicare beneficiaries, and CHAMPUS insureds.
- (12) The *office*~~[department]~~ shall direct that receipts of Kentucky Access be held at interest, and may be used to offset future losses or to reduce plan premiums in accordance with the terms of KRS 304.17B-001 to 304.17B-031. As used in this subsection, "future losses" may include reserves for incurred but not reported claims.
- (13) The *office*~~[department]~~ shall conduct examinations of insurers and stop-loss carriers reasonably necessary to determine if the information provided by the insurers or stop-loss carriers is accurate.
- (14) The insurer, as a condition of conducting health insurance business in Kentucky, shall pay the assessments specified in KRS 304.17B-001 to 304.17B-031.
- (15) The stop-loss carrier, as a condition of doing health insurance business in Kentucky, shall pay the assessments specified in KRS 304.17B-001 to 304.17B-031.

➔Section 22. KRS 304.17B-023 is amended to read as follows:

- (1) After the end of each calendar year, a GAP participating insurer shall report the following information for the previous calendar year:
  - (a) The total earned premium in the individual, small group, large group, and association markets;
  - (b) The number of GAP policies in force as of December 31;
  - (c) The amount of the insurer's GAP premiums received during the calendar year covered by the report;
  - (d) The amount of the insurer's GAP claims paid during the calendar year covered by the report;
  - (e) The amount of the insurer's GAP losses; and
  - (f) Other information as the *office*~~[department]~~ may require to be reported.
- (2) After the end of each calendar year, and based upon the reports filed under subsection (1) of this section, the *office*~~[department]~~ shall calculate and provide to each insurer who filed a report the following information relating to the calendar year:
  - (a) The amount of each reporting insurer's market share;
  - (b) The total amount of GAP premiums for all reporting insurers;
  - (c) The total amount of GAP claims paid by all reporting insurers;
  - (d) The amount of total actual GAP losses;
  - (e) The amount of the insurer's assessment or refund; and
  - (f) Other information as the *office*~~[department]~~ may elect to calculate and report.

The *office*~~[department]~~ shall complete its calculation and provide each insurer the results of its calculation within sixty (60) days after receiving all required information.

- (3) The *office*~~[department]~~ shall pay GAP losses to GAP participating insurers in accordance with this section and KRS 304.17B-021(5).

- (4) The ~~office~~~~department~~ shall conduct examinations of insurers participating in Kentucky Access as are reasonably necessary to determine if the information provided by the insurers is accurate.

➔Section 23. KRS 304.17B-027 is amended to read as follows:

Kentucky Access and the **Office of Health Data and Analytics**~~department~~ shall be exempt from all taxes levied by the state or any of its subdivisions.

➔Section 24. KRS 304.17B-029 is amended to read as follows:

- (1) Sixty (60) days prior to the regular session of the General Assembly in the year 2002, and sixty (60) days prior to each subsequent regular session of the General Assembly thereafter, the ~~office~~~~department~~ shall submit a written report to the Legislative Research Commission and provide a detailed briefing. The report shall contain an evaluation of Kentucky Access, an evaluation of issues concerning high-risk individuals, and other information as the ~~office~~~~department~~ deems necessary.
- (2) ~~Beginning no later than June 30, 2001, and annually thereafter,~~ The Auditor of Public Accounts shall audit Kentucky Access and within sixty (60) days of completion of the audit shall submit a copy of the audit to the Legislative Research Commission, **the Office of Health Data and Analytics**, and the Department of Insurance.

➔Section 25. KRS 304.17B-031 is amended to read as follows:

- (1) The **Office of Health Data and Analytics**~~department~~ shall promulgate administrative regulations necessary to carry out the provisions of KRS 304.17B-001 to 304.17B-031.
- (2) Kentucky Access shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:
- (a) Subtitle 1;
  - (b) Subtitle 2;
  - (c) Subtitle 3;
  - (d) Subtitle 5;
  - (e) Subtitle 8;
  - (f) Subtitle 9;
  - (g) Subtitle 12;
  - (h) Subtitle 14;
  - (i) Subtitle 17;
  - (j) Subtitle 17A;
  - (k) Subtitle 25;
  - (l) Subtitle 38; and
  - (m) Subtitle 47.

➔Section 26. KRS 304.17B-033 is amended to read as follows:

- (1) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established under KRS 304.17B-001(14) and recommend changes to the **director of the Division of Health Benefit Exchange**~~commissioner~~. The **director**~~commissioner~~ may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the **director**~~commissioner~~ deems appropriate. The council, in making recommendations, and the **director**~~commissioner~~, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.
- (2) The **director**~~commissioner~~ may by administrative regulation add to or delete from the list of high-cost conditions for Kentucky Access.

➔Section 27. KRS 304.2-020 is amended to read as follows:

- (1) The commissioner is the head of the Department of Insurance.

- (2) The commissioner shall be appointed by the Governor with the consent of the Senate, for a term not to exceed four (4) years on the basis of his or her merit and fitness to perform the duties of the office as provided in KRS 12.040. If the Senate is not in session when a term expires or a vacancy occurs, the Governor shall make the appointment to take effect at once, subject to the approval of the Senate when convened. Nothing contained in this subsection shall prohibit the commissioner of the Department of Insurance from being reappointed.
- (3) The following divisions are established within the Department of Insurance and shall be headed by directors appointed by the secretary of the Public Protection Cabinet with the approval of the Governor in accordance with KRS 12.050:
  - (a) Division of Insurance Product Regulation;
  - (b) Division of Administrative Services;
  - (c) Division of Financial Standards and Examination;
  - (d) Division of Agent Licensing;
  - (e) Division of Insurance Fraud Investigation; *and*
  - (f) Division of Consumer Protection~~;~~ ~~and~~
  - ~~(g) Division of Kentucky Access.~~

➔Section 28. KRS 304.2-100 is amended to read as follows:

- (1) The commissioner shall personally supervise the operations of the department.
- (2) The commissioner shall examine and inquire into violations of this code, shall enforce the provisions of this code with impartiality and shall execute the duties imposed upon him or her by this code.
- (3) The commissioner shall have the powers and authority expressly conferred upon him or her by or reasonably implied from the provisions of this code.
- (4) The commissioner may conduct such examinations and investigations of insurance matters, in addition to examinations and investigations expressly authorized, as the commissioner may deem proper upon reasonable and probable cause to determine whether any person has violated any provisions of this code or to secure information useful in the lawful administration of any such provision. The cost of such additional examinations and investigations shall be borne by the state.
- (5) The commissioner may establish and maintain such branch offices in this state as may be reasonably required for the efficient administration of this code.
- (6) The commissioner shall have such additional powers and duties as may be provided by other laws of this state.
- (7) *The commissioner shall assist the Office of Health Data and Analytics in carrying out subtitle 17B of KRS Chapter 304 and Section 3 of this Act.*

➔Section 29. The following KRS sections are repealed:

- 260.660 Legislative intent of KRS 260.660 to 260.665.  
 260.661 Definitions for KRS 260.660 to 260.665.  
 260.662 Kentucky Milk Commission established.  
 260.663 Membership of commission -- Terms -- Meetings.  
 260.664 Duties of commission.  
 260.665 Dairy industry fund.

➔Section 30. 2007 Ky. Acts ch. 61 (2007 Regular Session House Joint Resolution 137) is hereby repealed.

➔Section 31. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

➔Section 32. Notwithstanding KRS 12.028(5), the General Assembly hereby confirms Executive Order 2018-325, dated May 14, 2018, relating to the Reorganization of the Cabinet for Health and Family Services; and Executive Order 2018-780, dated September 21, 2018, also relating to the Reorganization of the Cabinet for Health and Family Services, to the extent that they are not otherwise confirmed or superseded by this Act.

**Signed by Governor March 25, 2019.**