

1 AN ACT relating to reorganization.

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

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

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

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

- 17 (1) The Governor.
- 18 (2) Lieutenant Governor.
- 19 (3) Department of State.
- 20 (a) Secretary of State.
- 21 (b) Board of Elections.
- 22 (c) Registry of Election Finance.
- 23 (4) Department of Law.
- 24 (a) Attorney General.
- 25 (5) Department of the Treasury.
- 26 (a) Treasurer.
- 27 (6) Department of Agriculture.

- 1 (a) Commissioner of Agriculture.
- 2 (b) Kentucky Council on Agriculture.
- 3 (7) Auditor of Public Accounts.
- 4 II. Program cabinets headed by appointed officers:
- 5 (1) Justice and Public Safety Cabinet:
- 6 (a) Department of Kentucky State Police.
- 7 (b) Department of Criminal Justice Training.
- 8 (c) Department of Corrections.
- 9 (d) Department of Juvenile Justice.
- 10 (e) Office of the Secretary.
- 11 (f) Office of Drug Control Policy.
- 12 (g) Office of Legal Services.
- 13 (h) Office of the Kentucky State Medical Examiner.
- 14 (i) Parole Board.
- 15 (j) Kentucky State Corrections Commission.
- 16 (k) Office of Legislative and Intergovernmental Services.
- 17 (l) Office of Management and Administrative Services.
- 18 (m) Department of Public Advocacy.
- 19 (2) Education and Workforce Development Cabinet:
- 20 (a) Office of the Secretary.
- 21 1. Governor's Scholars Program.
- 22 2. Governor's School for Entrepreneurs Program.
- 23 (b) Office of Legal and Legislative Services.
- 24 1. Client Assistance Program.
- 25 (c) Office of Communication.
- 26 (d) Office of Budget and Administration.
- 27 1. Division of Human Resources.

- 1 2. Division of Administrative Services.
- 2 (e) Office of Technology Services.
- 3 (f) Office of Educational Programs.
- 4 (g) Office for Education and Workforce Statistics.
- 5 (h) Board of the Kentucky Center for Education and Workforce Statistics.
- 6 (i) Board of Directors for the Center for School Safety.
- 7 (j) Department of Education.
- 8 1. Kentucky Board of Education.
- 9 2. Kentucky Technical Education Personnel Board.
- 10 (k) Department for Libraries and Archives.
- 11 (l) Department of Workforce Investment.
- 12 1. Office for the Blind.
- 13 2. Office of Vocational Rehabilitation.
- 14 3. Office of Employment and Training.
- 15 a. Division of Grant Management and Support.
- 16 b. Division of Workforce and Employment Services.
- 17 c. Division of Unemployment Insurance.
- 18 (m) Foundation for Workforce Development.
- 19 (n) Kentucky Office for the Blind State Rehabilitation Council.
- 20 (o) Kentucky Workforce Investment Board.
- 21 (p) Statewide Council for Vocational Rehabilitation.
- 22 (q) Unemployment Insurance Commission.
- 23 (r) Education Professional Standards Board.
- 24 1. Division of Educator Preparation.
- 25 2. Division of Certification.
- 26 3. Division of Professional Learning and Assessment.
- 27 4. Division of Legal Services.

- 1 (s) Kentucky Commission on the Deaf and Hard of Hearing.
- 2 (t) Kentucky Educational Television.
- 3 (u) Kentucky Environmental Education Council.
- 4 (3) Energy and Environment Cabinet:
- 5 (a) Office of the Secretary.
- 6 1. Office of Legislative and Intergovernmental Affairs.
- 7 2. Office of General Counsel.
- 8 3. Office of Administrative Hearings.
- 9 4. Mine Safety Review Commission.
- 10 5. Kentucky State Nature Preserves Commission.
- 11 6. Kentucky Public Service Commission.
- 12 (b) Department for Environmental Protection.
- 13 1. Office of the Commissioner.
- 14 2. Division for Air Quality.
- 15 3. Division of Water.
- 16 4. Division of Environmental Program Support.
- 17 5. Division of Waste Management.
- 18 6. Division of Enforcement.
- 19 7. Division of Compliance Assistance.
- 20 (c) Department for Natural Resources.
- 21 1. Office of the Commissioner.
- 22 2. Division of Technical and Administrative Support.
- 23 3. Division of Mine Permits.
- 24 4. Division of Mine Reclamation and Enforcement.
- 25 5. Division of Abandoned Mine Lands.
- 26 6. Division of Oil and Gas.
- 27 7. Division of Mine Safety.

- 1 8. Division of Forestry.
- 2 9. Division of Conservation.
- 3 10. Office of the Reclamation Guaranty Fund.
- 4 (d) Department for Energy Development and Independence.
- 5 1. Division of Efficiency and Conservation.
- 6 2. Division of Renewable Energy.
- 7 3. Division of Biofuels.
- 8 4. Division of Energy Generation Transmission and Distribution.
- 9 5. Division of Carbon Management.
- 10 6. Division of Fossil Energy Development.
- 11 (4) Public Protection Cabinet.
- 12 (a) Office of the Secretary.
- 13 1. Office of Communications and Public Outreach.
- 14 2. Office of Legal Services.
- 15 a. Insurance Legal Division.
- 16 b. Charitable Gaming Legal Division.
- 17 c. Alcoholic Beverage Control Legal Division.
- 18 d. Housing, Buildings and Construction Legal Division.
- 19 e. Financial Institutions Legal Division.
- 20 (b) Kentucky Claims Commission.
- 21 (c) Kentucky Boxing and Wrestling Commission.
- 22 (d) Kentucky Horse Racing Commission.
- 23 1. Office of Executive Director.
- 24 a. Division of Pari-mutuel Wagering and Compliance.
- 25 b. Division of Stewards.
- 26 c. Division of Licensing.
- 27 d. Division of Enforcement.

- 1 e. Division of Incentives and Development.
- 2 f. Division of Veterinary Services.
- 3 (e) Department of Alcoholic Beverage Control.
- 4 1. Division of Distilled Spirits.
- 5 2. Division of Malt Beverages.
- 6 3. Division of Enforcement.
- 7 (f) Department of Charitable Gaming.
- 8 1. Division of Licensing and Compliance.
- 9 2. Division of Enforcement.
- 10 (g) Department of Financial Institutions.
- 11 1. Division of Depository Institutions.
- 12 2. Division of Non-Depository Institutions.
- 13 3. Division of Securities.
- 14 (h) Department of Housing, Buildings and Construction.
- 15 1. Division of Fire Prevention.
- 16 2. Division of Plumbing.
- 17 3. Division of Heating, Ventilation, and Air Conditioning.
- 18 4. Division of Building Code Enforcement.
- 19 (i) Department of Insurance.
- 20 1. Division of Insurance Product Regulation.
- 21 2. Division of Administrative Services.
- 22 3. Division of Financial Standards and Examination.
- 23 4. Division of Agent Licensing.
- 24 5. Division of Insurance Fraud Investigation.
- 25 6. Division of Consumer Protection.
- 26 ~~{7. Division of Kentucky Access.}~~
- 27 (j) Department of Professional Licensing.

- 1 1. Real Estate Authority.
- 2 (5) Labor Cabinet.
- 3 (a) Office of the Secretary.
- 4 1. Division of Management Services.
- 5 2. Office of General Counsel.
- 6 a. Workplace Standards Legal Division.
- 7 b. Workers' Claims Legal Division.
- 8 (b) Office of General Administration and Program Support for Shared
- 9 Services.
- 10 1. Division of Human Resource Management.
- 11 2. Division of Fiscal Management.
- 12 3. Division of Budgets.
- 13 4. Division of Information Services.
- 14 (c) Office of Inspector General for Shared Services.
- 15 (d) Department of Workplace Standards.
- 16 1. Division of Apprenticeship.
- 17 2. Division of Occupational Safety and Health Compliance.
- 18 3. Division of Occupational Safety and Health Education and
- 19 Training.
- 20 4. Division of Wages and Hours.
- 21 (e) Department of Workers' Claims.
- 22 1. Division of Workers' Compensation Funds.
- 23 2. Office of Administrative Law Judges.
- 24 3. Division of Claims Processing.
- 25 4. Division of Security and Compliance.
- 26 5. Division of Information Services.
- 27 6. Division of Ombudsman and Workers' Compensation Specialist

- 1 Services.
- 2 7. Workers' Compensation Board.
- 3 (f) Workers' Compensation Funding Commission.
- 4 (g) Occupational Safety and Health Standards Board.
- 5 (h) Apprenticeship and Training Council.
- 6 (i) State Labor Relations Board.
- 7 (j) Employers' Mutual Insurance Authority.
- 8 (k) Kentucky Occupational Safety and Health Review Commission.
- 9 (l) Workers' Compensation Nominating Committee.
- 10 (6) Transportation Cabinet:
- 11 (a) Department of Highways.
- 12 1. Office of Project Development.
- 13 2. Office of Project Delivery and Preservation.
- 14 3. Office of Highway Safety.
- 15 4. Highway District Offices One through Twelve.
- 16 (b) Department of Vehicle Regulation.
- 17 (c) Department of Aviation.
- 18 (d) Department of Rural and Municipal Aid.
- 19 1. Office of Local Programs.
- 20 2. Office of Rural and Secondary Roads.
- 21 (e) Office of the Secretary.
- 22 1. Office of Public Affairs.
- 23 2. Office for Civil Rights and Small Business Development.
- 24 3. Office of Budget and Fiscal Management.
- 25 4. Office of Inspector General.
- 26 (f) Office of Support Services.
- 27 (g) Office of Transportation Delivery.

- 1 (h) Office of Audits.
- 2 (i) Office of Human Resource Management.
- 3 (j) Office of Information Technology.
- 4 (k) Office of Legal Services.
- 5 (7) Cabinet for Economic Development:
- 6 (a) Office of the Secretary.
- 7 1. Office of Legal Services.
- 8 2. Department for Business Development.
- 9 a. Office of Entrepreneurship.
- 10 i. Commission on Small Business Advocacy.
- 11 b. Office of Research and Public Affairs.
- 12 c. Bluegrass State Skills Corporation.
- 13 3. Office of Financial Services.
- 14 a. Kentucky Economic Development Finance Authority.
- 15 b. Division of Finance and Personnel.
- 16 c. Division of Network Administration.
- 17 d. Compliance Division.
- 18 e. Incentive Assistance Division.
- 19 (8) Cabinet for Health and Family Services:
- 20 (a) Office of the Secretary.
- 21 (b) Office of Health Policy.
- 22 (c) Office of Legal Services.
- 23 (d) Office of Inspector General.
- 24 (e) Office of Communications and Administrative Review.
- 25 (f) Office of the Ombudsman.
- 26 (g) Office of Finance and Budget.
- 27 (h) Office of Human Resource Management.

- 1 (i) Office of Administrative and Technology Services.
- 2 (j) Department for Public Health.
- 3 (k) Department for Medicaid Services.
- 4 (l) Department for Behavioral Health, Developmental and Intellectual
- 5 Disabilities.
- 6 (m) Department for Aging and Independent Living.
- 7 (n) Department for Community Based Services.
- 8 (o) Department for Income Support.
- 9 (p) Department for Family Resource Centers and Volunteer Services.
- 10 (q) Kentucky Commission on Community Volunteerism and Service.
- 11 (r) Kentucky ~~Office~~Commission for Children with Special Health Care
- 12 Needs.
- 13 (s) Governor's Office of Electronic Health Information.
- 14 (t) Office of Legislative and Regulatory Affairs.
- 15 **(u) Kentucky Office of Health Benefit Exchange.**
- 16 (9) Finance and Administration Cabinet:
- 17 (a) Office of the Secretary.
- 18 (b) Office of the Inspector General.
- 19 (c) Office of Legislative and Intergovernmental Affairs.
- 20 (d) Office of General Counsel.
- 21 (e) Office of the Controller.
- 22 (f) Office of Administrative Services.
- 23 (g) Office of Policy and Audit.
- 24 (h) Department for Facilities and Support Services.
- 25 (i) Department of Revenue.
- 26 (j) Commonwealth Office of Technology.
- 27 (k) State Property and Buildings Commission.

- 1 (l) Office of Equal Employment Opportunity and Contract Compliance.
- 2 (m) Kentucky Employees Retirement Systems.
- 3 (n) Commonwealth Credit Union.
- 4 (o) State Investment Commission.
- 5 (p) Kentucky Housing Corporation.
- 6 (q) Kentucky Local Correctional Facilities Construction Authority.
- 7 (r) Kentucky Turnpike Authority.
- 8 (s) Historic Properties Advisory Commission.
- 9 (t) Kentucky Tobacco Settlement Trust Corporation.
- 10 (u) Kentucky Higher Education Assistance Authority.
- 11 (v) Kentucky River Authority.
- 12 (w) Kentucky Teachers' Retirement System Board of Trustees.
- 13 (x) Executive Branch Ethics Commission.
- 14 (10) Tourism, Arts and Heritage Cabinet:
- 15 (a) Kentucky Department of Tourism.
- 16 1. Division of Tourism Services.
- 17 2. Division of Marketing and Administration.
- 18 3. Division of Communications and Promotions.
- 19 (b) Kentucky Department of Parks.
- 20 1. Division of Information Technology.
- 21 2. Division of Human Resources.
- 22 3. Division of Financial Operations.
- 23 4. Division of Facilities Management.
- 24 5. Division of Facilities Maintenance.
- 25 6. Division of Customer Services.
- 26 7. Division of Recreation.
- 27 8. Division of Golf Courses.

- 1 9. Division of Food Services.
- 2 10. Division of Rangers.
- 3 11. Division of Resort Parks.
- 4 12. Division of Recreational Parks and Historic Sites.
- 5 (c) Department of Fish and Wildlife Resources.
- 6 1. Division of Law Enforcement.
- 7 2. Division of Administrative Services.
- 8 3. Division of Engineering, Infrastructure, and Technology.
- 9 4. Division of Fisheries.
- 10 5. Division of Information and Education.
- 11 6. Division of Wildlife.
- 12 7. Division of Marketing.
- 13 (d) Kentucky Horse Park.
- 14 1. Division of Support Services.
- 15 2. Division of Buildings and Grounds.
- 16 3. Division of Operational Services.
- 17 (e) Kentucky State Fair Board.
- 18 1. Office of Administrative and Information Technology Services.
- 19 2. Office of Human Resources and Access Control.
- 20 3. Division of Expositions.
- 21 4. Division of Kentucky Exposition Center Operations.
- 22 5. Division of Kentucky International Convention Center.
- 23 6. Division of Public Relations and Media.
- 24 7. Division of Venue Services.
- 25 8. Division of Personnel Management and Staff Development.
- 26 9. Division of Sales.
- 27 10. Division of Security and Traffic Control.

- 1 11. Division of Information Technology.
- 2 12. Division of the Louisville Arena.
- 3 13. Division of Fiscal and Contract Management.
- 4 14. Division of Access Control.
- 5 (f) Office of the Secretary.
 - 6 1. Office of Finance.
 - 7 2. Office of Government Relations and Administration.
 - 8 3. Office of Film and Tourism Development.
 - 9 4. Kentucky Sports Authority.
- 10 (g) Office of Legal Affairs.
- 11 (h) Office of Human Resources.
- 12 (i) Office of Public Affairs and Constituent Services.
- 13 (j) Office of Creative Services.
- 14 (k) Office of Capital Plaza Operations.
- 15 (l) Office of Arts and Cultural Heritage.
- 16 (m) Kentucky African-American Heritage Commission.
- 17 (n) Kentucky Foundation for the Arts.
- 18 (o) Kentucky Humanities Council.
- 19 (p) Kentucky Heritage Council.
- 20 (q) Kentucky Arts Council.
- 21 (r) Kentucky Historical Society.
 - 22 1. Division of Museums.
 - 23 2. Division of Oral History and Educational Outreach.
 - 24 3. Division of Research and Publications.
 - 25 4. Division of Administration.
- 26 (s) Kentucky Center for the Arts.
 - 27 1. Division of Governor's School for the Arts.

- 1 (t) Kentucky Artisans Center at Berea.
- 2 (u) Northern Kentucky Convention Center.
- 3 (v) Eastern Kentucky Exposition Center.
- 4 (11) Personnel Cabinet:
- 5 (a) Office of the Secretary.
- 6 (b) Department of Human Resources Administration.
- 7 (c) Office of Employee Relations.
- 8 (d) Kentucky Public Employees Deferred Compensation Authority.
- 9 (e) Office of Administrative Services.
- 10 (f) Office of Legal Services.
- 11 (g) Governmental Services Center.
- 12 (h) Department of Employee Insurance.
- 13 (i) Office of Diversity, Equality, and Training.
- 14 (j) Office of Public Affairs.

15 III. Other departments headed by appointed officers:

- 16 (1) Council on Postsecondary Education.
- 17 (2) Department of Military Affairs.
- 18 (3) Department for Local Government.
- 19 (4) Kentucky Commission on Human Rights.
- 20 (5) Kentucky Commission on Women.
- 21 (6) Department of Veterans' Affairs.
- 22 (7) Kentucky Commission on Military Affairs.
- 23 (8) Office of Minority Empowerment.
- 24 (9) Governor's Council on Wellness and Physical Activity.
- 25 (10) Kentucky Communications Network Authority.

26 ➔Section 2. KRS 18A.115 is amended to read as follows:

- 27 (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise

1 all positions in the state service now existing or hereafter established, except the
2 following:

- 3 (a) The General Assembly and employees of the General Assembly, including the
4 employees of the Legislative Research Commission;
- 5 (b) Officers elected by popular vote and persons appointed to fill vacancies in
6 elective offices;
- 7 (c) Members of boards and commissions;
- 8 (d) Officers and employees on the staff of the Governor, the Lieutenant Governor,
9 the Office of the Secretary of the Governor's Cabinet, and the Office of
10 Program Administration;
- 11 (e) Cabinet secretaries, commissioners, office heads, and the administrative heads
12 of all boards and commissions, including the executive director of Kentucky
13 Educational Television and the executive director and deputy executive
14 director of the Education Professional Standards Board;
- 15 (f) Employees of Kentucky Educational Television who have been determined to
16 be exempt from classified service by the Kentucky Authority for Educational
17 Television, which shall have sole authority over such exempt employees for
18 employment, dismissal, and setting of compensation, up to the maximum
19 established for the executive director and his principal assistants;
- 20 (g) One (1) principal assistant or deputy for each person exempted under
21 subsection (1)(e) of this section;
- 22 (h) One (1) additional principal assistant or deputy as may be necessary for
23 making and carrying out policy for each person exempted under subsection
24 (1)(e) of this section in those instances in which the nature of the functions,
25 size, or complexity of the unit involved are such that the secretary approves
26 such an addition on petition of the relevant cabinet secretary or department
27 head and such other principal assistants, deputies, or other major assistants as

1 may be necessary for making and carrying out policy for each person
2 exempted under subsection (1)(e) of this section in those instances in which
3 the nature of the functions, size, or complexity of the unit involved are such
4 that the board may approve such an addition or additions on petition of the
5 department head approved by the secretary. Effective August 1, 2010:

6 1. All positions approved under this paragraph prior to August 1, 2010,
7 shall be abolished effective December 31, 2010, unless reapproved
8 under subparagraph 2. of this paragraph; and

9 2. A position approved under this paragraph on or after August 1, 2010,
10 shall be approved for a period of five (5) years, after which time the
11 position shall be abolished unless reapproved under this subparagraph
12 for an additional five (5) year period;

13 (i) Division directors subject to the provisions of KRS 18A.170. Division
14 directors in the classified service as of January 1, 1980, shall remain in the
15 classified service;

16 (j) Physicians employed as such;

17 (k) One (1) private secretary for each person exempted under subsection (1)(e),
18 (g), and (h) of this section;

19 (l) The judicial department, referees, receivers, jurors, and notaries public;

20 (m) Officers and members of the staffs of state universities and colleges and
21 student employees of such institutions; officers and employees of the
22 Teachers' Retirement System; and officers, teachers, and employees of local
23 boards of education;

24 (n) Patients or inmates employed in state institutions;

25 (o) Persons employed in a professional or scientific capacity to make or conduct a
26 temporary or special inquiry, investigation, or examination on behalf of the
27 General Assembly, or a committee thereof, or by authority of the Governor,

- 1 and persons employed by state agencies for a specified, limited period to
2 provide professional, technical, scientific, or artistic services under the
3 provisions of KRS 45A.690 to 45A.725;
- 4 (p) Interim employees;
- 5 (q) Officers and members of the state militia;
- 6 (r) Department of Kentucky State Police troopers;
- 7 (s) University or college engineering students or other students employed part-
8 time or part-year by the state through special personnel recruitment programs;
9 provided that while so employed such aides shall be under contract to work
10 full-time for the state after graduation for a period of time approved by the
11 commissioner or shall be participants in a cooperative education program
12 approved by the commissioner;
- 13 (t) Superintendents of state mental institutions, including heads of centers for
14 individuals with an intellectual disability, and penal and correctional
15 institutions as referred to in KRS 196.180(2);
- 16 (u) Staff members of the Kentucky Historical Society, if they are hired in
17 accordance with KRS 171.311;
- 18 (v) County and Commonwealth's attorneys and their respective appointees;
- 19 (w) Chief district engineers and the state highway engineer;
- 20 (x) Veterinarians employed as such by the Kentucky Horse Racing Commission;
- 21 (y) Employees of the Kentucky Peace Corps;
- 22 (z) Employees of the Council on Postsecondary Education;
- 23 (aa) Executive director of the Commonwealth Office of Technology;
- 24 (ab) Employees of Serve Kentucky~~[the Kentucky Commission on Community~~
25 ~~Volunteerism and Service]~~;
- 26 (ac) Persons employed in certified teaching positions at the Kentucky School for
27 the Blind and the Kentucky School for the Deaf; and

- 1 (ad) Federally funded time-limited employees as defined in KRS 18A.005.
- 2 (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or
3 amend the provisions of KRS 150.022 and 150.061.
- 4 (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any
5 nonmanagement, nonpolicy-making position which must be included in the
6 classified service as a prerequisite to the grant of federal funds to a state agency.
- 7 (4) Career employees within the classified service promoted to positions exempted
8 from classified service shall, upon termination of their employment in the exempted
9 service, revert to a position in that class in the agency from which they were
10 terminated if a vacancy in that class exists. If no such vacancy exists, they shall be
11 considered for employment in any vacant position for which they were qualified
12 pursuant to KRS 18A.130 and 18A.135.
- 13 (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing
14 officers from filling unclassified positions in the manner in which positions in the
15 classified service are filled except as otherwise provided in KRS 18A.005 to
16 18A.200.
- 17 (6) The positions of employees who are transferred, effective July 1, 1998, from the
18 Cabinet for Workforce Development to the Kentucky Community and Technical
19 College System shall be abolished and the employees' names removed from the
20 roster of state employees. Employees that are transferred, effective July 1, 1998, to
21 the Kentucky Community and Technical College System under KRS Chapter 164
22 shall have the same benefits and rights as they had under KRS Chapter 18A and
23 have under KRS 164.5805; however, they shall have no guaranteed reemployment
24 rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An
25 employee who seeks reemployment in a state position under KRS Chapter 151B or
26 KRS Chapter 18A shall have years of service in the Kentucky Community and
27 Technical College System counted towards years of experience for calculating

1 benefits and compensation.

2 (7) On August 15, 2000, all certified and equivalent personnel, all unclassified
3 personnel, and all certified and equivalent and unclassified vacant positions in the
4 Department for Adult Education and Literacy shall be transferred from the
5 personnel system under KRS Chapter 151B to the personnel system under KRS
6 Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel
7 system. All records shall be transferred including accumulated annual leave, sick
8 leave, compensatory time, and service credit for each affected employee. The
9 personnel officers who administer the personnel systems under KRS Chapter 151B
10 and KRS Chapter 18A shall exercise the necessary administrative procedures to
11 effect the change in personnel authority. No certified or equivalent employee in the
12 Department for Adult Education and Literacy shall suffer any penalty in the
13 transfer.

14 (8) On August 15, 2000, secretaries and assistants attached to policymaking positions
15 in the Department for Technical Education and the Department for Adult Education
16 and Literacy shall be transferred from the personnel system under KRS Chapter
17 151B to the personnel system under KRS Chapter 18A. The positions shall be
18 deleted from the KRS Chapter 151B system. All records shall be transferred
19 including accumulated annual leave, sick leave, compensatory time, and service
20 credit for each affected employee. No employee shall suffer any penalty in the
21 transfer.

22 (9) On May 1, 2017, all contract employees of Eastern Kentucky University who are
23 engaged in providing instructional and support services to the Department of
24 Criminal Justice Training shall be transferred to the personnel system under KRS
25 Chapter 18A. All records shall be transferred, including accumulated annual leave,
26 sick leave, compensatory time, and service credit for each affected employee. The
27 personnel officers who administer the personnel systems for Eastern Kentucky

1 University and under KRS Chapter 18A shall exercise the necessary administrative
2 procedures to effect the change in personnel authority. No employee shall suffer any
3 penalty in the transfer.

4 ➔Section 3. KRS 194A.030 is amended to read as follows:

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

7 (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office
8 of Communications and Administrative Review, an Office of Legal Services, an
9 Office of Inspector General, an Office of the Ombudsman, and the Governor's
10 Office of Electronic Health Information.

11 (a) The Office of Communications and Administrative Review shall include
12 oversight of administrative hearings and communications with internal and
13 external audiences of the cabinet. The Office of Communications and
14 Administrative Review shall be headed by an executive director who shall be
15 appointed by the secretary with the approval of the Governor under KRS
16 12.050.

17 (b) The Office of Legal Services shall provide legal advice and assistance to all
18 units of the cabinet in any legal action in which it may be involved. The Office
19 of Legal Services shall employ all attorneys of the cabinet who serve the
20 cabinet in the capacity of attorney, giving legal advice and opinions
21 concerning the operation of all programs in the cabinet. The Office of Legal
22 Services shall be headed by a general counsel who shall be appointed by the
23 secretary with the approval of the Governor under KRS 12.050 and 12.210.
24 The general counsel shall be the chief legal advisor to the secretary and shall
25 be directly responsible to the secretary. The Attorney General, on the request
26 of the secretary, may designate the general counsel as an assistant attorney
27 general under the provisions of KRS 15.105.

- 1 (c) The Office of Inspector General shall be responsible for:
- 2 1. The conduct of audits and investigations for detecting the perpetration of
- 3 fraud or abuse of any program by any client, or by any vendor of
- 4 services with whom the cabinet has contracted; and the conduct of
- 5 special investigations requested by the secretary, commissioners, or
- 6 office heads of the cabinet into matters related to the cabinet or its
- 7 programs;
- 8 2. Licensing and regulatory functions as the secretary may delegate;
- 9 3. Review of health facilities participating in transplant programs, as
- 10 determined by the secretary, for the purpose of determining any
- 11 violations of KRS 311.1911 to 311.1959, 311.1961, and 311.1963; and
- 12 4. The notification and forwarding of any information relevant to possible
- 13 criminal violations to the appropriate prosecuting authority.

14 The Office of Inspector General shall be headed by an inspector general who

15 shall be appointed by the secretary with the approval of the Governor. The

16 inspector general shall be directly responsible to the secretary.

- 17 (d) The Office of the Ombudsman shall provide professional support in the
- 18 evaluation of programs, including but not limited to quality improvement and
- 19 information analysis and reporting, contract monitoring, program monitoring,
- 20 and the development of quality service delivery, and a review and resolution
- 21 of citizen complaints about programs or services of the cabinet when those
- 22 complaints are unable to be resolved through normal administrative remedies.
- 23 The Office of the Ombudsman shall place an emphasis on research and best
- 24 practice and program accountability and shall monitor federal compliance.
- 25 The Office of the Ombudsman shall be headed by an executive director who
- 26 shall be appointed by the secretary with the approval of the Governor in
- 27 accordance with KRS 12.050.

- 1 (e) The Governor's Office of Electronic Health Information shall provide
2 leadership in the redesign of the health care delivery system using electronic
3 information technology as a means to improve patient care and reduce medical
4 errors and duplicative services. The Governor's Office of Electronic Health
5 Information shall be headed by an executive director who shall be appointed
6 by the secretary with the approval of the Governor in accordance with KRS
7 12.050;
- 8 (2) Department for Medicaid Services. The Department for Medicaid Services shall
9 serve as the single state agency in the Commonwealth to administer Title XIX of the
10 Federal Social Security Act. The Department for Medicaid Services shall be headed
11 by a commissioner for Medicaid services, who shall be appointed by the secretary
12 with the approval of the Governor under KRS 12.050. The commissioner for
13 Medicaid services shall be a person who by experience and training in
14 administration and management is qualified to perform the duties of this office. The
15 commissioner for Medicaid services shall exercise authority over the Department
16 for Medicaid Services under the direction of the secretary and shall only fulfill those
17 responsibilities as delegated by the secretary;
- 18 (3) Department for Public Health. The Department for Public Health shall develop and
19 operate all programs of the cabinet that provide health services and all programs for
20 assessing the health status of the population for the promotion of health and the
21 prevention of disease, injury, disability, and premature death. This shall include but
22 not be limited to oversight of the Division of Women's Health. The Department for
23 Public Health shall be headed by a commissioner for public health who shall be
24 appointed by the secretary with the approval of the Governor under KRS 12.050.
25 The commissioner for public health shall be a duly licensed physician who by
26 experience and training in administration and management is qualified to perform
27 the duties of this office. The commissioner shall advise the head of each major

1 organizational unit enumerated in this section on policies, plans, and programs
2 relating to all matters of public health, including any actions necessary to safeguard
3 the health of the citizens of the Commonwealth. The commissioner shall serve as
4 chief medical officer of the Commonwealth. The commissioner for public health
5 shall exercise authority over the Department for Public Health under the direction of
6 the secretary and shall only fulfill those responsibilities as delegated by the
7 secretary;

8 (4) Department for Behavioral Health, Developmental and Intellectual Disabilities. The
9 Department for Behavioral Health, Developmental and Intellectual Disabilities shall
10 develop and administer programs for the prevention of mental illness, intellectual
11 disabilities, brain injury, developmental disabilities, and substance abuse disorders
12 and shall develop and administer an array of services and support for the treatment,
13 habilitation, and rehabilitation of persons who have a mental illness or emotional
14 disability, or who have an intellectual disability, brain injury, developmental
15 disability, or a substance abuse disorder. The Department for Behavioral Health,
16 Developmental and Intellectual Disabilities shall be headed by a commissioner for
17 behavioral health, developmental and intellectual disabilities who shall be
18 appointed by the secretary with the approval of the Governor under KRS 12.050.
19 The commissioner for behavioral health, developmental and intellectual disabilities
20 shall be by training and experience in administration and management qualified to
21 perform the duties of the office. The commissioner for behavioral health,
22 developmental and intellectual disabilities shall exercise authority over the
23 department under the direction of the secretary, and shall only fulfill those
24 responsibilities as delegated by the secretary;

25 (5) Office~~[Commission]~~ for Children with Special Health Care Needs. The duties,
26 responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed
27 by the office~~[commission]~~. The office~~[commission]~~ shall advocate the rights of

1 children with disabilities and, to the extent that funds are available, shall ensure the
2 administration of services for children with disabilities as are deemed appropriate
3 by this office~~[the commission]~~ pursuant to Title V of the Social Security Act. The
4 office~~[commission]~~ may promulgate administrative regulations under KRS Chapter
5 13A as may be necessary to implement and administer its responsibilities. The
6 duties, responsibilities, and authority of the Office~~[Commission]~~ for Children with
7 Special Health Care Needs shall be performed through the office of the executive
8 director. The executive director shall be appointed by the secretary with the
9 approval of the Governor under KRS 12.050;

10 (6) Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate
11 health care policy, including Medicaid, behavioral health, developmental and
12 intellectual disabilities, mental health services, services for individuals with an
13 intellectual disability, public health, certificate of need, and health insurance. The
14 duties, responsibilities, and authority pertaining to the certificate of need functions
15 and the licensure appeal functions, as set out in KRS Chapter 216B, shall be
16 performed by this office. The Office of Health Policy shall be headed by an
17 executive director who shall be appointed by the secretary with the approval of the
18 Governor pursuant to KRS 12.050;

19 (7) Department for Family Resource Centers and Volunteer Services. The Department
20 for Family Resource Centers and Serve Kentucky~~[Volunteer Services]~~ shall
21 streamline the various responsibilities associated with the human services programs
22 for which the cabinet is responsible. This shall include, but not be limited to,
23 oversight of the Division of Family Resource and Youth Services Centers and the
24 Kentucky Commission on Community Volunteerism and Services. The Department
25 for Family Resource Centers and Volunteer Services shall be headed by a
26 commissioner who shall be appointed by the secretary with the approval of the
27 Governor under KRS 12.050. The commissioner for family resource centers and

1 volunteer services shall be by training and experience in administration and
2 management qualified to perform the duties of the office, shall exercise authority
3 over the department under the direction of the secretary, and shall only fulfill those
4 responsibilities as delegated by the secretary;

5 (8) Office of Administrative and Technology Services. The Office of Administrative
6 and Technology Services shall develop and maintain technology, technology
7 infrastructure, and information management systems in support of all units of the
8 cabinet. The office shall have responsibility for properties and facilities owned,
9 maintained, or managed by the cabinet. The Office of Administrative and
10 Technology Services shall be headed by an executive director who shall be
11 appointed by the secretary with the approval of the Governor under KRS 12.050.
12 The executive director shall exercise authority over the Office of Administrative
13 and Technology Services under the direction of the secretary and shall only fulfill
14 those responsibilities as delegated by the secretary;

15 (9) Office of Human Resource Management. The Office of Human Resource
16 Management shall coordinate, oversee, and execute all personnel, training, and
17 management functions of the cabinet. The office shall focus on the oversight,
18 development, and implementation of quality personnel services; curriculum
19 development and delivery of instruction to staff; the administration, management,
20 and oversight of training operations; health, safety, and compliance training; and
21 equal employment opportunity compliance functions. The office shall be headed by
22 an executive director appointed by the secretary with the approval of the Governor
23 in accordance with KRS 12.050;

24 (10) The Office of Finance and Budget shall provide central review and oversight of
25 budget, contracts, and cabinet finances. The office shall provide coordination,
26 assistance, and support to program departments and independent review and
27 analysis on behalf of the secretary. The office shall be headed by an executive

1 director appointed by the secretary with the approval of the Governor in accordance
2 with KRS 12.050;

3 (11) Department for Community Based Services. The Department for Community Based
4 Services shall administer and be responsible for child and adult protection, violence
5 prevention resources, foster care and adoption, permanency, and services to enhance
6 family self-sufficiency, including child care, social services, public assistance, and
7 family support. The department shall be headed by a commissioner appointed by the
8 secretary with the approval of the Governor in accordance with KRS 12.050;

9 (12) Department for Income Support. The Department for Income Support shall be
10 responsible for child support enforcement and disability determination. The
11 department shall serve as the state unit as required by Title II and Title XVI of the
12 Social Security Act, and shall have responsibility for determining eligibility for
13 disability for those citizens of the Commonwealth who file applications for
14 disability with the Social Security Administration. The department shall be headed
15 by a commissioner appointed by the secretary with the approval of the Governor in
16 accordance with KRS 12.050;

17 (13) Department for Aging and Independent Living. The Department for Aging and
18 Independent Living shall serve as the state unit as designated by the Administration
19 on Aging Services under the Older Americans Act and shall have responsibility for
20 administration of the federal community support services, in-home services, meals,
21 family and caregiver support services, elder rights and legal assistance, senior
22 community services employment program, the state health insurance assistance
23 program, state home and community based services including home care,
24 Alzheimer's respite services and the personal care attendant program, certifications
25 of adult day care and assisted living facilities, the state Council on Alzheimer's
26 Disease and other related disorders, the Institute on Aging, and guardianship
27 services. The department shall also administer the Long-Term Care Ombudsman

1 Program and the Medicaid Home and Community Based Waivers Consumer
 2 Directed Option (CDO) Program. The department shall serve as the information and
 3 assistance center for aging and disability services and administer multiple federal
 4 grants and other state initiatives. The department shall be headed by a commissioner
 5 appointed by the secretary with the approval of the Governor in accordance with
 6 KRS 12.050; ~~and~~

7 (14) The Office of Legislative and Regulatory Affairs shall provide central review and
 8 oversight of legislation, policy, and administrative regulations. The office shall
 9 provide coordination, assistance, and support to program departments and
 10 independent review and analysis on behalf of the secretary. The office shall be
 11 headed by an executive director appointed by the secretary with the approval of the
 12 Governor in accordance with KRS 12.050; and

13 **(15) The Kentucky Office of Health Benefit Exchange. The Kentucky Office of Health**
 14 **Benefit Exchange shall administer the provisions of the Patient Protection and**
 15 **Affordable Care Act, Pub.L. 111-148. The office shall facilitate:**

16 **(a) Enrollment in health coverage and the purchase and sale of qualified**
 17 **health plans in the individual market; and**

18 **(b) The ability of eligible individuals to receive premium tax credits and cost-**
 19 **sharing reductions and to enable eligible small businesses to receive tax**
 20 **credits, in compliance with all applicable federal and state laws and**
 21 **regulations;**

22 **The office shall be headed by an executive director to be appointed by the**
 23 **secretary with the approval of the Governor pursuant to KRS 12.050.**

24 ➔Section 4. KRS 200.460 is amended to read as follows:

25 (1) The **Office**~~Commission~~ for Children with Special Health Care Needs shall provide
 26 through contractual agreement, or otherwise, such services as may be necessary to
 27 locate, diagnose, treat, habilitate, or rehabilitate children with disabilities, and may

1 include any necessary auxiliary services, such as room and board and travel for
2 patients and parents or parent substitutes.

3 (2) Children referred to the care of the Office~~[Commission]~~ for Children with Special
4 Health Care Needs for treatment shall be placed under the care of those physicians
5 or surgeons that the Office~~[Commission]~~ for Children with Special Health Care
6 Needs deems qualified and may be placed in a hospital or home properly equipped
7 to render the necessary treatment or services required by the child.

8 (3) The Office~~[Commission]~~ for Children with Special Health Care Needs is authorized
9 to make those expenditures necessary to carry out the provisions of this section and
10 KRS 200.470 to 200.490.

11 (4) Any administrative appeal of a decision of the office~~[commission]~~ shall be
12 conducted in accordance with KRS Chapter 13B.

13 ➔Section 5. KRS 200.470 is amended to read as follows:

14 (1) No child shall be accepted for care or treatment by the Office~~[Commission]~~ for
15 Children with Special Health Care Needs if his parents or legal guardian are able to
16 pay for such treatment except where the child resides in an area of the state where
17 adequate care and treatment are not otherwise available, in which event referral
18 must be made by the doctor caring for the child and the parents or guardian shall
19 reimburse the Office~~[Commission]~~ for Children with Special Health Care Needs for
20 all cost expended by the office~~[commission]~~ for treatment.

21 (2) In the event the Office~~[Commission]~~ for Children with Special Health Care Needs
22 determines that the parents or legal guardian of a child with a disability can pay only
23 a portion of the cost of treatment through their own resources or through resources
24 available to them, such parents or guardian shall pay such sums as they are able to
25 pay and the funds thus received shall be turned over to the Office~~[Commission]~~ for
26 Children with Special Health Care Needs and applied to the cost of treatment and
27 care of the child.

1 ➔Section 6. KRS 200.480 is amended to read as follows:

2 The Office~~[Commission]~~ for Children with Special Health Care Needs shall make a
3 biennial report to the Governor showing the amount of money received and expended and
4 a detailed statement of its activities for such period. A copy of such report shall be
5 furnished each member of the General Assembly at its first session following the filing of
6 such report with the Governor.

7 ➔Section 7. KRS 200.490 is amended to read as follows:

8 All information as to medical data, personal facts, and circumstances obtained by the
9 Office~~[Commission]~~ for Children with Special Health Care Needs staff shall constitute
10 privileged communications, shall be held confidential and shall not be divulged without
11 the consent of the father, mother, guardian, person who committed the child, or the
12 patient involved, except as may be necessary to provide additional services to children
13 through other medical, welfare or service agencies and institutions. Such information may
14 be disclosed in summary, statistical or other form which does not identify particular
15 individuals.

16 ➔Section 8. KRS 200.495 is amended to read as follows:

17 As used in this chapter, unless the context otherwise requires:

18 (1) ~~["Commission" means the Kentucky Commission for Children with Special Health~~
19 ~~Care Needs, the Kentucky Crippled Children's Program, and the Kentucky Program~~
20 ~~of Health Services to children with special health care needs.~~

21 ~~(2)~~—"Recipient" means any person who has received medical services provided by the
22 Office for Children with Special Health Care Needs~~[commission]~~ or who has
23 received medical services paid for on his behalf by the office~~[commission]~~.

24 ~~(2)~~~~(3)~~ "Medical services" means medical or medically-related institutional or
25 noninstitutional services which are provided to a recipient or paid for by the Office
26 for Children with Special Health Care Needs~~[commission]~~ on behalf of a
27 recipient.

1 ~~(3)~~~~(4)~~ "Third-party coverage" means any public or private party who is liable to
 2 provide medical services or to make medical services benefit payments to a
 3 recipient or other provider for medical services provided to a recipient under the
 4 terms of any contract, health insurance policy, health insurance plan, settlement, or
 5 award.

6 →Section 9. KRS 200.497 is amended to read as follows:

7 Third-party coverage for medical services provided by the **Office for Children with**
 8 **Special Health Care Needs**~~[commission]~~ to clients of the **office**~~[commission]~~ shall be
 9 considered primary coverage in all instances. The **office's**~~[commission's]~~ liability for
 10 coverage for medical services to its clients shall be considered residual to third-party
 11 coverage in all instances.

12 →Section 10. KRS 200.499 is amended to read as follows:

13 (1) An applicant for or recipient of medical services provided by or paid for by the
 14 **Office for Children with Special Health Care Needs**~~[commission]~~ shall inform the
 15 **office**~~[commission]~~ of any rights that the applicant or recipient has to third-party
 16 payments for medical services at the time of initial application for services or at any
 17 time thereafter when such third-party payment should become available. The
 18 **office**~~[commission]~~ shall automatically be subrogated to any rights the recipient has
 19 to third-party payment for medical services.

20 (2) The **office**~~[commission]~~ shall recover the full cost of medical services provided to a
 21 recipient and shall recover any payments made for medical services on his behalf
 22 directly from:

23 (a) Any third party liable to make a medical benefit payment to the provider of
 24 the recipient's medical services or to the recipient under the terms and
 25 provisions of any contract, health insurance policy, health insurance plan,
 26 settlement, or award;

27 (b) The recipient, if he **or she** has received third-party payment for medical

1 services that have been provided to him; or

2 (c) The provider of the recipient's medical services if third-party payment for
3 medical services has been recovered by the provider.

4 (3) A recipient of medical services provided by the office~~[commission]~~ or paid for by
5 the office~~[commission]~~ shall be deemed to have made an assignment to the
6 office~~[commission]~~ of any right such recipient has to any payment for such medical
7 services from a third party.

8 (4) A recipient of medical services provided by the office~~[commission]~~ or paid for by
9 the office~~[commission]~~ shall be deemed to have provided the office~~[commission]~~
10 the authority to release medical information with respect to such medical services
11 for the purpose of obtaining reimbursement from a third party.

12 (5) The office~~[commission]~~ may, in order to enforce its subrogation rights under this
13 section, institute, intervene in, or join any legal proceeding against any third party
14 against whom recovery rights arise. No action taken by the office~~[commission]~~ shall
15 operate to deny the recipient recovery for that portion of his damage not subrogated
16 to the office~~[commission]~~ and no action of the recipient shall prejudice the
17 subrogation rights of the office~~[commission]~~.

18 (6) When the office~~[commission]~~ provides, pays for, or becomes liable for the medical
19 services, and their costs, of a recipient, it shall have a lien for the full amount of the
20 cost of such medical services upon any and all causes of action which accrue to the
21 recipient or to his legal representatives, as a result of sickness, injury, disease,
22 disability, or death due to the liability of a third party which necessitated the
23 medical service. The office~~[commission]~~ shall have one (1) calendar year from the
24 date when the last item of medical services relative to a specific accident or spell of
25 illness was provided or paid for in which to file its verified lien statement. The
26 statement shall be filed with the clerk of the Circuit Court in the recipient's county
27 residence. The verified lien statement shall contain the name and address of the

1 recipient of medical services; the date of the injury or accident; the name and
2 address of the vendor or vendors furnishing medical services to the recipient; the
3 date of the medical services; the amount claimed to be due the ~~office~~[~~commission~~]
4 for the medical services provided or paid for; and, to the best knowledge of the
5 ~~office~~[~~commission~~], the names and addresses of all persons or corporations claimed
6 to be liable for damages arising from the injuries. The ~~office's~~[~~commission's~~] failure
7 to file a lien shall not affect the ~~office's~~[~~commission's~~] subrogation rights provided
8 for in subsection (1) of this section.

9 (7) In recovering any payment in accordance with this action, the ~~office~~[~~commission~~] is
10 authorized to make appropriate settlements.

11 ➔Section 11. KRS 304.2-020 is amended to read as follows:

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

13 (2) The commissioner shall be appointed by the Governor with the consent of the
14 Senate, for a term not to exceed four (4) years on the basis of his or her merit and
15 fitness to perform the duties of the office as provided in KRS 12.040. If the Senate
16 is not in session when a term expires or a vacancy occurs, the Governor shall make
17 the appointment to take effect at once, subject to the approval of the Senate when
18 convened. Nothing contained in this subsection shall prohibit the commissioner of
19 the Department of Insurance from being reappointed.

20 (3) The following divisions are established within the Department of Insurance and
21 shall be headed by directors appointed by the secretary of the Public Protection
22 Cabinet with the approval of the Governor in accordance with KRS 12.050:

- 23 (a) Division of Insurance Product Regulation;
24 (b) Division of Administrative Services;
25 (c) Division of Financial Standards and Examination;
26 (d) Division of Agent Licensing;
27 (e) Division of Insurance Fraud Investigation; ***and***

1 (f) Division of Consumer Protection~~;~~ and

2 ~~(g) Division of Kentucky Access].~~

3 ➔Section 12. KRS 304.17B-001 is amended to read as follows:

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

5 (1) "Administrator" is defined in KRS 304.9-051(1);

6 (2) "Agent" is defined in KRS 304.9-020;

7 (3) "Assessment process" means the process of assessing and allocating guaranteed
8 acceptance program losses or Kentucky Access funding as provided for in KRS
9 304.17B-021;

10 (4) "Authority" means the Kentucky Health Care Improvement Authority;

11 (5) "Case management" means a process for identifying an enrollee with specific health
12 care needs and interacting with the enrollee and their respective health care
13 providers in order to facilitate the development and implementation of a plan that
14 efficiently uses health care resources to achieve optimum health outcome;

15 (6) "Commissioner" is defined in KRS 304.1-050(1);

16 (7) "Department" is defined in KRS 304.1-050(2);

17 **(8) "Director" means the director of the Division of Operations, Administration and**
18 **Kentucky Access;**

19 **(9) "Division" is the Division of Operations, Administration and Kentucky Access;**

20 ~~(10)(8)~~ "Earned premium" means the portion of premium paid by an insured that has
21 been allocated to the insurer's loss experience, expenses, and profit year to date;

22 ~~(11)(9)~~ "Enrollee" means a person who is enrolled in a health benefit plan offered
23 under Kentucky Access;

24 ~~(12)(10)~~ "Eligible individual" is defined in KRS 304.17A-005(11);

25 ~~(13)(11)~~ "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed
26 Acceptance Program established and operated under KRS 304.17A-400 to
27 304.17A-480;

1 ~~(14)~~~~(12)~~ "Guaranteed acceptance program participating insurer" means an insurer that
2 offered health benefit plans through December 31, 2000, in the individual market to
3 guaranteed acceptance program qualified individuals;

4 ~~(15)~~~~(13)~~ "Health benefit plan" is defined in KRS 304.17A-005(22);

5 ~~(16)~~~~(14)~~ "High-cost condition" means acquired immune deficiency syndrome (AIDS),
6 angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary
7 insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia,
8 Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic
9 cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy,
10 myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic
11 kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease,
12 chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the
13 bronchus, malignant neoplasm of the lung, malignant neoplasm of the colon, short
14 gestation period for a newborn child, and low birth weight of a newborn child;

15 ~~(17)~~~~(15)~~ "Incurred losses" means for Kentucky Access the excess of claims paid over
16 premiums received;

17 ~~(18)~~~~(16)~~ "Insurer" is defined in KRS 304.17A-005(27);

18 ~~(19)~~~~(17)~~ "Kentucky Access" means the program established in accordance with KRS
19 304.17B-001 to 304.17B-031;

20 ~~(20)~~~~(18)~~ "Kentucky Access Fund" means the fund established in KRS 304.17B-021;

21 ~~(21)~~~~(19)~~ "Kentucky Health Care Improvement Authority" means the board established
22 to administer the program initiatives listed in KRS 304.17B-003(5);

23 ~~(22)~~~~(20)~~ "Kentucky Health Care Improvement Fund" means the fund established for
24 receipt of the Kentucky tobacco master settlement moneys for program initiatives
25 listed in KRS 304.17B-003(5);

26 ~~(23)~~~~(21)~~ "MARS" means the Management Administrative Reporting System
27 administered by the Commonwealth;

1 ~~(24)~~~~(22)~~ "Medicaid" means coverage in accordance with Title XIX of the Social
2 Security Act, 42 U.S.C. secs. 1396 et seq., as amended;

3 ~~(25)~~~~(23)~~ "Medicare" means coverage under both Parts A and B of Title XVIII of the
4 Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;

5 **(26) "Office" is the Kentucky Office of Health Benefit Exchange;**

6 ~~(27)~~~~(24)~~ "Pre-existing condition exclusion" is defined in KRS 304.17A-220(6);

7 ~~(28)~~~~(25)~~ "Standard health benefit plan" means a health benefit plan that meets the
8 requirements of KRS 304.17A-250;

9 ~~(29)~~~~(26)~~ "Stop-loss carrier" means any person providing stop-loss health insurance
10 coverage;

11 ~~(30)~~~~(27)~~ "Supporting insurer" means all insurers, stop-loss carriers, and self-insured
12 employer-controlled or bona fide associations; and

13 ~~(31)~~~~(28)~~ "Utilization management" is defined in KRS 304.17A-500(~~15~~~~12~~).

14 ➔Section 13. KRS 304.17B-003 is amended to read as follows:

15 (1) There is hereby established the Kentucky Health Care Improvement Authority as an
16 agency, instrumentality, and political subdivision of the Commonwealth and a
17 public body corporate and politic with all the powers, duties, and responsibilities
18 conferred upon it by statute and necessary or convenient to carry out its functions.
19 The authority shall be administered by a board of fifteen (15) members and is
20 created to perform the public functions of administering programs financed by the
21 funds appropriated to the authority in conformance with KRS 304.17B-001 to
22 304.17B-031 and any terms and conditions established by the General Assembly as
23 a part of the act appropriating the funds. The members of the board shall consist of
24 the following:

25 (a) The **secretary of the Cabinet for Health and Family Services**~~commissioner~~
26 ~~of the Department of Insurance~~, or the **secretary's**~~commissioner's~~
27 designated representative, who shall serve as chair;

- 1 (b) The commissioner of the Department of Insurance~~[secretary of the Cabinet~~
2 ~~for Health and Family Services]~~, or the commissioner's~~[secretary's]~~
3 designated representative, who shall serve as vice chair;
- 4 (c) Two (2) nonvoting members serving ex officio from the House of
5 Representatives, one (1) of whom shall be appointed by the Speaker of the
6 House and one (1) appointed by the minority floor leader, and who shall serve
7 a term of two (2) years;
- 8 (d) Two (2) nonvoting members serving ex officio from the Senate, one (1) of
9 whom shall be appointed by the President of the Senate and one (1) appointed
10 by the minority floor leader, and who shall serve a term of two (2) years;
- 11 (e) The deans of the University of Louisville School of Medicine and the
12 University of Kentucky College of Medicine, or their designated
13 representatives;
- 14 (f) The commissioner of the Department for Public Health, or the commissioner's
15 designated representative;
- 16 (g) Two (2) representatives of Kentucky health care providers, who shall be
17 appointed by the Governor; and
- 18 (h) Four (4) citizens at large of the Commonwealth, who shall be appointed by the
19 Governor.
- 20 (2) The terms of office of the initial appointments of the citizen at-large members of the
21 board shall expire one (1), two (2), three (3), and four (4) years respectively from
22 the expiration date of the initial appointment. One (1) of the initial terms of the
23 representatives of health care providers, at least one (1) of whom shall be male and
24 at least one (1) of whom shall be female, shall be for two (2) years and one (1) shall
25 be for four (4) years. All succeeding appointments shall be for four (4) years from
26 the expiration date of the term of the initial appointment. Two (2) of the citizens at
27 large shall be male and two (2) shall be female. Board members shall serve until

1 their successors are appointed.

2 (3) In making private sector and citizen-at-large appointments to the board, the
3 Governor shall assure broad geographical and ethnic representation as well as
4 representation from consumers and the major sectors of Kentucky's health care and
5 health insurance businesses. Private sector and citizen-at-large members shall serve
6 without compensation but shall be reimbursed for reasonable and necessary
7 expenses.

8 (4) The authority shall establish procedures for accountability, including the review of
9 expenditures, and develop mechanisms to measure the success of programs that
10 receive allocated funds in accordance with any criteria or instructions provided by
11 the General Assembly. The authority shall be attached to the Cabinet for Health
12 and Family Services~~Department of Insurance~~ for administrative purposes and
13 shall establish advisory boards it deems appropriate, which shall consist of health
14 insurance consumers, health care providers, and insurance company representatives,
15 to assist with oversight of fund expenditures.

16 (5) Grants and funds obtained under KRS 304.17B-001 to 304.17B-031 shall be used
17 for expenditures as follows:

18 (a) Seventy percent (70%) of all moneys in the fund shall be placed into the
19 Kentucky Access fund for the purpose of funding Kentucky Access;

20 (b) Twenty percent (20%) of all moneys in the fund shall be spent on a
21 collaborative partnership between the University of Louisville and the
22 University of Kentucky dedicated to lung cancer research; and

23 (c) Ten percent (10%) of all moneys in the fund shall be used to discourage the
24 use of harmful substances by minors.

25 (6) The authority shall assure that a public hearing is held on the expenditure of funds
26 allocated under this section, except for funds allocated to the Kentucky Access
27 fund. Advertisement of the public hearing shall be published at least once but may

1 be published two (2) more times, if one (1) publication occurs not less than seven
2 (7) days nor more than twenty-one (21) days before the scheduled date of the public
3 hearing. The authority shall submit an annual report to the Governor and the
4 General Assembly indicating how the funds were used and an evaluation of the
5 program's effectiveness in health care and access to health insurance for Kentucky
6 residents.

7 (7) Neither the authority nor its employees shall be liable for any obligations of any of
8 the programs established under KRS 304.17B-001 to 304.17B-031. No member or
9 employee of the authority shall be liable, and no cause of action of any nature may
10 arise against them, for any act or omission related to the performance of their
11 powers and duties under KRS 304.17B-001 to 304.17B-031, unless the act or
12 omission constitutes willful or wanton misconduct. The authority may provide in its
13 policies and procedures for indemnification of, and legal representation for, its
14 members and employees.

15 (8) The authority shall have all the powers necessary or convenient to carry out and
16 effectuate the purposes and provisions of KRS 304.17B-001 to 304.17B-031,
17 including, but not limited to, retaining the staff it deems necessary for the proper
18 performance of its duties.

19 (9) The authority shall meet at least quarterly and at other times upon call of the chair
20 or a majority of the authority.

21 ➔Section 14. KRS 304.17B-005 is amended to read as follows:

22 (1) There is hereby created Kentucky Access, which shall ensure that health coverage is
23 made available to each Kentucky individual resident applying and qualifying for
24 coverage. Any health coverage provided under this section shall begin no sooner
25 than January 1, 2001. Kentucky Access is designed for the purpose of implementing
26 an acceptable alternative mechanism within the meaning of 42 U.S.C. sec. 300gg-
27 44(a)(1) so that Kentucky may preserve the flexibility over the regulation of health

1 coverage allowed by federal law.

2 (2) Kentucky Access shall operate under the Division of Operations, Administration
 3 and Kentucky Access in the Kentucky Office of Health Benefit
 4 Exchange~~[Department of Insurance]~~. The division shall be headed by a division
 5 director appointed by the secretary of the Cabinet for Health and Family
 6 Services~~[Public Protection Cabinet]~~ in accordance with KRS 12.050.

7 (3) Neither the office~~[department]~~ nor its employees shall be liable for any obligations
 8 of Kentucky Access. No member or employee of the office~~[department]~~ shall be
 9 liable, and no cause of action of any nature may arise against them, for any act or
 10 omission related to the performance of their powers and duties under KRS 304.17B-
 11 001 to 304.17B-031, unless such act or omission constitutes willful or wanton
 12 misconduct. The office~~[department]~~ may provide in its policies and procedures for
 13 indemnification of, and legal representation for, its members and employees.

14 ➔Section 15. KRS 304.17B-007 is amended to read as follows:

15 In its duties to operate and administer Kentucky Access, the office~~[department]~~ shall,
 16 through itself or designated agents:

- 17 (1) Establish administrative and accounting procedures for the operation of Kentucky
 18 Access;
- 19 (2) Enter into contracts as necessary;
- 20 (3) Take legal action necessary:
- 21 (a) To avoid the payment of improper claims against Kentucky Access or the
 22 coverage provided by or through Kentucky Access;
- 23 (b) To recover any amounts erroneously or improperly paid by Kentucky Access;
- 24 (c) To recover any amounts paid by the Kentucky Access as a result of mistake of
 25 fact or law;
- 26 (d) To recover other amounts due Kentucky Access; or
- 27 (e) To operate and administer its obligations under the provisions of KRS

- 1 304.17B-001 to 304.17B-031;
- 2 (4) Establish, and modify as appropriate, rates, rate schedules, rate adjustments,
3 premium rates, expense allowances, claim reserve formulas, and any other actuarial
4 function appropriate to the administration and operation of Kentucky Access.
5 Premium rates and rate schedules may be adjusted for appropriate factors,
6 including, but not limited to, age and sex, and shall take into consideration
7 appropriate factors in accordance with established actuarial and underwriting
8 practices;
- 9 (5) Establish procedures under which applicants and participants in Kentucky Access
10 shall have an internal grievance process and a mechanism for external review
11 through an independent review organization in accordance with this chapter;
- 12 (6) Select a third-party administrator in accordance with KRS 304.17B-011;
- 13 (7) Require that all health benefit plans, riders, endorsements, or other forms and
14 documents used to administer Kentucky Access meet the requirements of Subtitles
15 12, 14, 17, 17A, and 38 of this chapter;
- 16 (8) Adopt nationally recognized uniform claim forms in accordance with this chapter;
- 17 (9) Develop and implement a marketing strategy to publicize the existence of Kentucky
18 Access, including, but not limited to, eligibility requirements, procedures for
19 enrollment, premium rates, and a toll-free telephone number to call for questions;
- 20 (10) Establish and review annually provider reimbursement rates that ensure that
21 payments are consistent with efficiency, economy, and quality of care and are
22 sufficient to enlist enough providers so that care and services are available under
23 Kentucky Access at least to the extent that such care and services are available to
24 the general population. The office~~[department]~~ shall only authorize contracts with
25 health care providers that prohibit the provider from collecting from the enrollee
26 any amounts in excess of copayment amounts, coinsurance amounts, deductible
27 amounts, and amounts for noncovered services;

- 1 (11) Conduct periodic audits to assure the general accuracy of the financial and claims
2 data submitted to the office[department] and be subject to an annual audit of its
3 operations;
- 4 (12) Issue health benefit plans January 1, 2001, or thereafter, in accordance with the
5 requirements of KRS 304.17B-001 to 304.17B-031;
- 6 (13) Require a referral fee of fifty dollars (\$50) to be paid to agents who refer applicants
7 who are subsequently enrolled in Kentucky Access. The referral fee shall be paid
8 only on the initial enrollment of an applicant. Referral fees shall not be paid on any
9 enrollments of enrollees who have been previously enrolled in Kentucky Access, or
10 for renewals for enrollees;
- 11 (14) Bill and collect premiums from enrollees in the amount determined by the
12 office[department];
- 13 (15) Assess insurers and stop-loss carriers in accordance with KRS 304.17B-021;
- 14 (16) Reimburse GAP participating insurers for GAP losses pursuant to KRS 304.17B-
15 021;
- 16 (17) Establish a provider network for Kentucky Access by developing a statewide
17 provider network or by contracting with an insurer for a statewide provider network.
18 In the event the office[department] contracts with an insurer, the office[department]
19 may take into consideration factors including, but not limited to, the size of the
20 provider network, the composition of the provider network, and the current market
21 rate of the provider network. The provider network shall be made available to the
22 third-party administrator specified in KRS 304.17B-011 and shall be limited to
23 Kentucky Access enrollees.
- 24 (18) Be audited by the Auditor of Public Accounts;
- 25 (19) By administrative regulation, amend the definition of high-cost conditions provided
26 in KRS 304.17B-001 by adding other high-cost conditions;
- 27 (20) The office[department] shall report on an annual basis to the Interim Joint

1 Committee on Banking and Insurance the separation plan pursuant to KRS
2 304.17A-080 for the division of duties and responsibilities between the operation of
3 the Department of Insurance and the operation of Kentucky Access; and

4 (21) Any other actions as may be necessary and proper for the execution of the
5 office's~~[department's]~~ powers, duties, and obligations under KRS 304.17B-001 to
6 304.17B-031.

7 ➔Section 16. KRS 304.17B-009 is amended to read as follows:

8 In its duties to operate and administer Kentucky Access, the office~~[department]~~ may,
9 through itself or third parties:

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

12 ➔Section 17. KRS 304.17B-011 is amended to read as follows:

13 (1) The office~~[department]~~ shall select a third-party administrator, through the state
14 competitive bidding process, to administer Kentucky Access. The third-party
15 administrator shall be an administrator licensed by the department. The
16 office~~[department]~~ shall consider criteria in selecting a third-party administrator that
17 shall include, but not be limited to, the following:

- 18 (a) A third-party administrator's proven ability to demonstrate performance of the
19 operations of an insurer to include the following: enrollee enrollment,
20 eligibility determination, provider enrollment and credentialing, utilization
21 management, quality improvement, drug utilization review, premium billing
22 and collection, claims payment, and data reporting;
- 23 (b) The total cost to administer Kentucky Access;
- 24 (c) A third-party administrator's proven ability to demonstrate that Kentucky
25 Access shall be administered in a cost-efficient manner;
- 26 (d) A third-party administrator's proven ability to demonstrate experience in two
27 (2) or more states administering a risk pool for a minimum of a three (3) year

1 period; and

2 (e) A third-party administrator's financial condition and stability.

3 (2) The office[department] may contract with the third-party administrator for a period
4 of four (4) years with an option for a two (2) year extension as approved by the
5 office[department] on a year-by-year contract basis. At least one (1) year prior to the
6 expiration of the third-party administrator's contract, the office[department] may
7 solicit third-party administrators, including the current third-party administrator, to
8 submit bids to serve as the third-party administrator for the succeeding four (4) year
9 period.

10 (3) In addition to any duties and obligations set forth in the contract with the third-party
11 administrator, the third-party administrator shall:

12 (a) Develop and establish policies and procedures for enrollee enrollment,
13 eligibility determination, provider enrollment and credentialing, utilization
14 management, case management, disease management, quality improvement,
15 drug utilization review, premium billing and collection, data reporting, and
16 other responsibilities determined by the office[department];

17 (b) Develop and establish policies and procedures for paying the agent referral fee
18 under KRS 304.17B-001 to 304.17B-031;

19 (c) Develop and establish policies and procedures to ensure timely and efficient
20 payment of claims to include, but not limited to, the following:

21 1. Develop and provide a claims billing manual to health care providers
22 enrolled in Kentucky Access that includes information relating to the
23 proper billing of a claim and the types of claim forms to use;

24 2. Payment of all claims in accordance with the provisions of this chapter
25 and the administrative regulations promulgated thereunder; and

26 3. Notification to an enrollee through an explanation of benefits if a claim
27 is denied or if there is enrollee financial responsibility of a paid claim

- 1 for deductible or coinsurance amounts;
- 2 (d) Issue denial letters under KRS 304.17A-540 for denial of preauthorization and
3 precertification requests for medical necessity and medical appropriateness
4 determinations;
- 5 (e) Submit information to the office and the department under KRS 304.17A-
6 330;
- 7 (f) Submit reports to the office[department] regarding the operation and financial
8 condition of Kentucky Access. The frequency, content, and form of the reports
9 shall be determined by the office[department];
- 10 (g) Submit an annual report to the office[department] three (3) months after the
11 end of each calendar year. The annual report shall include:
- 12 1. Earned premium;
- 13 2. Administrative expenses;
- 14 3. Incurred losses for the year;
- 15 4. Paid losses for the year;
- 16 5. Number of enrollees enrolled in Kentucky Access by category of
17 eligibility; and
- 18 6. Any other information requested by the office[department]; and
- 19 (h) Be subject to examination by the department under Subtitles 2 and 3 of this
20 chapter.
- 21 (4) The third-party administrator shall be paid for necessary and reasonable expenses,
22 as provided in the contract between the office[department] and the third-party
23 administrator.
- 24 ➔Section 18. KRS 304.17B-013 is amended to read as follows:
- 25 (1) The schedule of rates, premium rates charged to enrollees, deductible amounts,
26 copayment amounts, coinsurance amounts, and other cost-sharing amounts shall be
27 established by the office[department]. Premium rates charged to enrollees are not

1 intended to fully cover the cost of providing health care coverage to Kentucky
2 Access enrollees, and any claims in excess of premium rates shall be covered by the
3 Kentucky Access fund.

4 (2) Premium rates for health benefit plans provided under Kentucky Access shall bear a
5 reasonable relationship to each other. Premium rates shall be varied based on age
6 and gender. The initial premium rates for plan coverage shall not exceed one
7 hundred fifty percent (150%) of the applicable individual standard risk rates, as
8 established by the department. In no event shall premium rates exceed one hundred
9 seventy-five percent (175%) of the rates applicable to individual standard risks.

10 (3) Premium rates for coverage issued by Kentucky Access shall be established
11 annually by the office~~[department]~~, using reasonable actuarial principles, and shall
12 reflect anticipated experience and expenses for risks under Kentucky Access.

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

14 (1) At least annually, the office~~[department]~~ shall evaluate and revise as necessary rates
15 to be charged to Kentucky Access enrollees.

16 (2) Except as provided in KRS 304.17B-019, the office~~[department]~~ may revise its
17 health benefit plans, cost-sharing arrangements, plan delivery rules, schedule of
18 benefits, rates, and cost-containment features provided under Kentucky Access at
19 the time of the health benefit plan renewal as necessary to ensure that Kentucky
20 Access maintains adequate resources for continued operation.

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

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

25 (2) At least one (1) plan shall be offered in a traditional fee-for-service form. At least
26 one (1) plan may be offered in a managed-care form at such time as the
27 office~~[department]~~ can establish an appropriate provider network in available

1 service areas.

2 (3) The office[department] shall provide for utilization review and case management
3 for all health benefit plans issued under Kentucky Access.

4 (4) The office[department] shall review and compare health benefit plans provided
5 under Kentucky Access to health benefit plans provided in the individual market.
6 Based on the review, the office[department] may amend or replace the health
7 benefit plans issued under Kentucky Access.

8 (5) Individuals who apply and are determined eligible for health benefit plans issued
9 under Kentucky Access shall have coverage effective the first day of the month after
10 the application month.

11 (6) For eligible individuals, health benefit plans issued under Kentucky Access shall
12 not impose any pre-existing condition exclusions. In all other cases, a pre-existing
13 condition exclusion may be imposed in accordance with KRS 304.17A-230.

14 (7) Health benefit plans issued under Kentucky Access shall be guaranteed renewable
15 except as otherwise specified in KRS 304.17B-015 and KRS 304.17A-240.

16 (8) All health benefit plans issued under Kentucky Access shall provide that, upon the
17 death or divorce of the individual in whose name the contract was issued, every
18 other person covered in the contract may elect within sixty-three (63) days to
19 continue under the same or a different contract.

20 (9) Health benefit plans issued under Kentucky Access shall coordinate benefits with
21 other health benefit plans and be the payor of last resort.

22 (10) Health benefit plans issued under Kentucky Access shall pay covered benefits up to
23 a lifetime limit of two million dollars (\$2,000,000) per covered individual. The
24 maximum limit under this subsection may be increased by the office[department].

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

26 (1) In addition to the other powers enumerated in KRS 304.17B-001 to 304.17B-031,
27 the office[department] shall assess insurers in the amounts specified in this section.

1 The assessment shall be used for the purpose of funding GAP losses and Kentucky
2 Access.

3 (a) The amount of the assessment for each calendar year shall be as follows:

- 4 1. From each stop-loss carrier, an amount that is equal to two dollars (\$2)
5 upon each one hundred dollars (\$100) of health insurance stop-loss
6 premiums;
- 7 2. From all insurers, an amount based on the total amount of all health
8 benefit plan premiums earned during the prior assessment period and
9 paid by all insurers who received any of the health benefit plan
10 premiums on which the annual assessment is based. The percentage rate
11 used for the annual assessment shall be the same percentage rate as
12 calculated in the GAP risk adjustment process for the six (6) month
13 period of July 1, 1998, through December 31, 1998;
- 14 3. If determined necessary by the office~~[department]~~, a second assessment
15 may be assessed in the same manner as the annual assessment in
16 subparagraph 2. of this paragraph; and
- 17 4. In no event shall the sum of the first assessment provided for in
18 subparagraph 2. of this paragraph and the second assessment provided
19 for in subparagraph 3. of this paragraph be greater than one percent (1%)
20 of the total amount of all assessable health benefit plan premiums earned
21 during the prior assessment period.

22 (b) The first assessment shall be for the period from January 1, 2000, through
23 December 31, 2000, and shall be paid on or before March 31, 2001.
24 Subsequent annual assessments shall be paid on or before March 31 of the
25 year following the assessment period.

26 (2) Every supporting insurer shall report to the office~~[department]~~, in a form and at the
27 time as the office~~[department]~~ may specify, the following information for the

1 specified period:

2 (a) The insurer's total stop-loss premiums and health benefit plan premiums in the
3 individual, small group, large group, and association markets; and

4 (b) Other information as the office[department] may require.

5 (3) As part of the assessment process, the office[department] shall establish and
6 maintain the Kentucky Access fund. All funds shall be held at interest, in a single
7 depository designated in accordance with KRS 304.8-090(1) under a written trust
8 agreement in accordance with KRS 304.8-095. All expense and revenue
9 transactions of the fund shall be posted to the Management Administrative
10 Reporting System (MARS) and its successors.

11 (4) The Kentucky Access fund shall be funded from the following sources:

12 (a) Premiums paid by Kentucky Access enrollees;

13 (b) The funds designated for Kentucky Access in the Kentucky Health Care
14 Improvement fund;

15 (c) Appropriations from the General Assembly;

16 (d) All premium taxes collected under KRS Chapter 136 from any insurer, and
17 any retaliatory taxes collected under KRS 304.3-270 from any insurer, for
18 accident and health premiums that are in excess of the amount of the premium
19 taxes and retaliatory taxes collected for the calendar year 1997;

20 (e) Annual assessments from supporting insurers;

21 (f) A second assessment from supporting insurers;

22 (g) Gifts, grants, or other voluntary contributions;

23 (h) Interest or other earnings on the investment of the moneys held in the account;
24 and

25 (i) Any funds remaining on January 1, 2001, in the guaranteed acceptance
26 program account may be transferred to the Kentucky Access fund.

27 (5) The office[department] shall determine on behalf of Kentucky Access the

1 premiums, the expenses for administration, the incurred losses, taking into account
2 investment income and other amounts needed to satisfy reserves, estimated claim
3 liabilities, and other obligations for each calendar year. The office[department] shall
4 also determine the amount of the actual guaranteed acceptance program plan losses
5 for each calendar year. The office[department] shall assess insurers as follows:

6 (a) On or before March 31 of each year, the amount set forth in subsection
7 (1)(a)1. and (1)(a)2. of this section.

8 (b) If the amount of actual guaranteed acceptance program plan losses exceeds the
9 assessment provided for in paragraph (a) of this subsection, a second
10 assessment shall be authorized under subsection (1)(a)3. of this section. If the
11 amount of GAP losses exceeds the assessments provided under subsection
12 (1)(a)1., subsection (1)(a)2., and subsection (1)(a)3. of this section, moneys
13 received and available from the Kentucky Health Care Improvement Fund
14 after the office[department] determines available funding for Kentucky Access
15 for the current calendar year pursuant to subsection (6) of this section, shall be
16 used to reimburse GAP participating insurers for any actual guaranteed
17 acceptance program losses. If the amount of GAP losses exceeds the amount
18 in the Kentucky Health Care Improvement Fund after reserving sufficient
19 funds for Kentucky Access for the current year, each GAP participating
20 insurer shall be reimbursed up to the amount of its proportional share of actual
21 guaranteed acceptance program plan losses from the fund. Effective for any
22 assessment on or after January 1, 2001, in calculating GAP losses, total
23 premiums and total claims of the GAP participating insurer shall be used.
24 Actual guaranteed acceptance program losses shall be calculated as the
25 difference between the total GAP claims and the total GAP premiums on an
26 aggregate basis.

27 (c) If GAP losses are fully covered by the assessment process provided for in

- 1 subsection (1)(a)1. and (1)(a)2. of this section and the second assessment
2 provided for in subsection (1)(a)3. of this section is not necessary to cover
3 GAP losses, and as determined by the office[department] using reasonable
4 actuarial principles Kentucky Access funding is needed, a second assessment
5 provided for in subsection (1)(a)3. of this section shall be completed.
- 6 (6) After the end of each calendar year, GAP losses shall be reimbursed only after the
7 office[department] determines that appropriate funding is available for Kentucky
8 Access for the current calendar year. GAP losses shall be reimbursed after reserving
9 sufficient funds for Kentucky Access.
- 10 (7) With respect to a GAP participating insurer who reasonably will be expected both
11 to pay assessments and to receive payments from the assessment fund, the
12 office[department] shall calculate the net amount owed to or to be received from the
13 fund, and the office[department] shall only collect assessments for or make
14 payments from the fund based upon net amounts.
- 15 (8) Insurers paying an assessment may include in any health insurance rate filing the
16 amount of these assessments as provided for in Subtitle 17A of this chapter.
- 17 (9) Insurers shall pay any assessment amounts authorized in KRS 304.17B-001 to
18 304.17B-031 within thirty (30) days of receiving notice from the office[department]
19 of the assessment amount.
- 20 (10) Any surpluses remaining in the Kentucky Access fund after completion of the
21 assessment process for a calendar year shall be maintained for use in the assessment
22 process for future calendar years and such funds shall not lapse. The general fund
23 appropriations to the Kentucky Access fund shall not lapse.
- 24 (11) Assessments on health benefit plan premiums that are required under KRS
25 304.17B-001 to 304.17B-031 shall not be applied to premiums received by an
26 insurer for state employees, Medicaid recipients, Medicare beneficiaries, and
27 CHAMPUS insureds.

- 1 (12) The office~~[department]~~ shall direct that receipts of Kentucky Access be held at
2 interest, and may be used to offset future losses or to reduce plan premiums in
3 accordance with the terms of KRS 304.17B-001 to 304.17B-031. As used in this
4 subsection, "future losses" may include reserves for incurred but not reported
5 claims.
- 6 (13) The office~~[department]~~ shall conduct examinations of insurers and stop-loss carriers
7 reasonably necessary to determine if the information provided by the insurers or
8 stop-loss carriers is accurate.
- 9 (14) The insurer, as a condition of conducting health insurance business in Kentucky,
10 shall pay the assessments specified in KRS 304.17B-001 to 304.17B-031.
- 11 (15) The stop-loss carrier, as a condition of doing health insurance business in Kentucky,
12 shall pay the assessments specified in KRS 304.17B-001 to 304.17B-031.
- 13 ➔Section 22. KRS 304.17B-023 is amended to read as follows:
- 14 (1) After the end of each calendar year, a GAP participating insurer shall report the
15 following information for the previous calendar year:
- 16 (a) The total earned premium in the individual, small group, large group, and
17 association markets;
- 18 (b) The number of GAP policies in force as of December 31;
- 19 (c) The amount of the insurer's GAP premiums received during the calendar year
20 covered by the report;
- 21 (d) The amount of the insurer's GAP claims paid during the calendar year covered
22 by the report;
- 23 (e) The amount of the insurer's GAP losses; and
- 24 (f) Other information as the office~~[department]~~ may require to be reported.
- 25 (2) After the end of each calendar year, and based upon the reports filed under
26 subsection (1) of this section, the office~~[department]~~ shall calculate and provide to
27 each insurer who filed a report the following information relating to the calendar

1 year:

- 2 (a) The amount of each reporting insurer's market share;
- 3 (b) The total amount of GAP premiums for all reporting insurers;
- 4 (c) The total amount of GAP claims paid by all reporting insurers;
- 5 (d) The amount of total actual GAP losses;
- 6 (e) The amount of the insurer's assessment or refund; and
- 7 (f) Other information as the office~~[department]~~ may elect to calculate and report.

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

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

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

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

17 Kentucky Access and the office~~[department]~~ shall be exempt from all taxes levied by the
 18 state or any of its subdivisions.

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

20 (1) Sixty (60) days prior to the regular session of the General Assembly in the year
 21 2002, and sixty (60) days prior to each subsequent regular session of the General
 22 Assembly thereafter, the office~~[department]~~ shall submit a written report to the
 23 Legislative Research Commission and provide a detailed briefing. The report shall
 24 contain an evaluation of Kentucky Access, an evaluation of issues concerning high-
 25 risk individuals, and other information as the office~~[department]~~ deems necessary.

26 (2) Beginning no later than June 30, 2001, and annually thereafter, the Auditor of
 27 Public Accounts shall audit Kentucky Access and within sixty (60) days of

1 completion of the audit shall submit a copy of the audit to the Legislative Research
 2 Commission, the Kentucky Office of Health Benefit Exchange, and the
 3 Department of Insurance.

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

- 5 (1) The office~~[department]~~ shall promulgate administrative regulations necessary to
 6 carry out the provisions of KRS 304.17B-001 to 304.17B-031.
- 7 (2) Kentucky Access shall be subject to the provisions of this subtitle, and to the
 8 following provisions of this chapter, to the extent applicable and not in conflict with
 9 the expressed provisions of this subtitle:
- 10 (a) Subtitle 1;
 11 (b) Subtitle 2;
 12 (c) Subtitle 3;
 13 (d) Subtitle 5;
 14 (e) Subtitle 8;
 15 (f) Subtitle 9;
 16 (g) Subtitle 12;
 17 (h) Subtitle 14;
 18 (i) Subtitle 17;
 19 (j) Subtitle 17A;
 20 (k) Subtitle 25;
 21 (l) Subtitle 38; and
 22 (m) Subtitle 47.

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

- 24 (1) No less than annually, the Health Insurance Advisory Council shall review the list
 25 of high-cost conditions established under KRS 304.17B-001~~(16)~~~~(14)~~ and
 26 recommend changes to the director~~[commissioner]~~. The director~~[commissioner]~~
 27 may accept or reject any or all of the recommendations and may make whatever

1 changes by administrative regulation the director~~[commissioner]~~ deems
2 appropriate. The council, in making recommendations, and the
3 director~~[commissioner]~~, in making changes, shall consider, among other things,
4 actual claims and losses on each diagnosis and advances in treatment of high-cost
5 conditions.

6 (2) The director~~[commissioner]~~ may by administrative regulation add to or delete from
7 the list of high-cost conditions for Kentucky Access.

8 ➔Section 27. KRS 304.17A-005 is amended to read as follows:

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

10 (1) "Association" means an entity, other than an employer-organized association, that
11 has been organized and is maintained in good faith for purposes other than that of
12 obtaining insurance for its members and that has a constitution and bylaws;

13 (2) "At the time of enrollment" means:

14 (a) At the time of application for an individual, an association that actively
15 markets to individual members, and an employer-organized association that
16 actively markets to individual members; and

17 (b) During the time of open enrollment or during an insured's initial or special
18 enrollment periods for group health insurance;

19 (3) "Base premium rate" means, for each class of business as to a rating period, the
20 lowest premium rate charged or that could have been charged under the rating
21 system for that class of business by the insurer to the individual or small group, or
22 employer as defined in KRS 304.17A-0954, with similar case characteristics for
23 health benefit plans with the same or similar coverage;

24 (4) "Basic health benefit plan" means any plan offered to an individual, a small group,
25 or employer-organized association that limits coverage to physician, pharmacy,
26 home health, preventive, emergency, and inpatient and outpatient hospital services
27 in accordance with the requirements of this subtitle. If vision or eye services are

1 offered, these services may be provided by an ophthalmologist or optometrist.
2 Chiropractic benefits may be offered by providers licensed pursuant to KRS
3 Chapter 312;

4 (5) "Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-
5 91(d)(3);

6 (6) "Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

7 (7) "COBRA" means any of the following:

8 (a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric
9 vaccines;

10 (b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161
11 et seq. other than sec. 1169); or

12 (c) 42 U.S.C. sec. 300bb;

13 (8) (a) "Creditable coverage" means, with respect to an individual, coverage of the
14 individual under any of the following:

15 1. A group health plan;

16 2. Health insurance coverage;

17 3. Part A or Part B of Title XVIII of the Social Security Act;

18 4. Title XIX of the Social Security Act, other than coverage consisting
19 solely of benefits under section 1928;

20 5. Chapter 55 of Title 10, United States Code, including medical and dental
21 care for members and certain former members of the uniformed services,
22 and for their dependents; for purposes of Chapter 55 of Title 10, United
23 States Code, "uniformed services" means the Armed Forces and the
24 Commissioned Corps of the National Oceanic and Atmospheric
25 Administration and of the Public Health Service;

26 6. A medical care program of the Indian Health Service or of a tribal
27 organization;

- 1 7. A state health benefits risk pool;
- 2 8. A health plan offered under Chapter 89 of Title 5, United States Code,
3 such as the Federal Employees Health Benefit Program;
- 4 9. A public health plan as established or maintained by a state, the United
5 States government, a foreign country, or any political subdivision of a
6 state, the United States government, or a foreign country that provides
7 health coverage to individuals who are enrolled in the plan;
- 8 10. A health benefit plan under section 5(e) of the Peace Corps Act (22
9 U.S.C. sec. 2504(e)); or
- 10 11. Title XXI of the Social Security Act, such as the State Children's Health
11 Insurance Program.
- 12 (b) This term does not include coverage consisting solely of coverage of excepted
13 benefits as defined in subsection (14) of this section;
- 14 (9) "Dependent" means any individual who is or may become eligible for coverage
15 under the terms of an individual or group health benefit plan because of a
16 relationship to a participant;
- 17 (10) "Employee benefit plan" means an employee welfare benefit plan or an employee
18 pension benefit plan or a plan which is both an employee welfare benefit plan and
19 an employee pension benefit plan as defined by ERISA;
- 20 (11) "Eligible individual" means an individual:
- 21 (a) For whom, as of the date on which the individual seeks coverage, the
22 aggregate of the periods of creditable coverage is eighteen (18) or more
23 months and whose most recent prior creditable coverage was under a group
24 health plan, governmental plan, or church plan. A period of creditable
25 coverage under this paragraph shall not be counted if, after that period, there
26 was a sixty-three (63) day period of time, excluding any waiting or affiliation
27 period, during all of which the individual was not covered under any

- 1 creditable coverage;
- 2 (b) Who is not eligible for coverage under a group health plan, Part A or Part B of
- 3 Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a
- 4 state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et
- 5 seq.) and does not have other health insurance coverage;
- 6 (c) With respect to whom the most recent coverage within the coverage period
- 7 described in paragraph (a) of this subsection was not terminated based on a
- 8 factor described in KRS 304.17A-240(2)(a), (b), and (c);
- 9 (d) If the individual had been offered the option of continuation coverage under a
- 10 COBRA continuation provision or under KRS 304.18-110, who elected the
- 11 coverage; and
- 12 (e) Who, if the individual elected the continuation coverage, has exhausted the
- 13 continuation coverage under the provision or program;
- 14 (12) "Employer-organized association" means any of the following:
- 15 (a) Any entity that was qualified by the commissioner as an eligible association
- 16 prior to April 10, 1998, and that has actively marketed a health insurance
- 17 program to its members since September 8, 1996, and which is not insurer-
- 18 controlled;
- 19 (b) Any entity organized under KRS 247.240 to 247.370 that has actively
- 20 marketed health insurance to its members and that is not insurer-controlled; or
- 21 (c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-
- 22 91(d)(3), whose members consist principally of employers, and for which the
- 23 entity's health insurance decisions are made by a board or committee, the
- 24 majority of which are representatives of employer members of the entity who
- 25 obtain group health insurance coverage through the entity or through a trust or
- 26 other mechanism established by the entity, and whose health insurance
- 27 decisions are reflected in written minutes or other written documentation.

1 Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, and
2 except as otherwise provided by the definition of "large group" contained in
3 subsection (30) of this section, an employer-organized association shall not be
4 treated as an association, small group, or large group under this subtitle, provided
5 that an employer-organized association that is a bona fide association as defined in
6 subsection (5) of this section shall be treated as a large group under this subtitle;

7 (13) "Employer-organized association health insurance plan" means any health insurance
8 plan, policy, or contract issued to an employer-organized association, or to a trust
9 established by one (1) or more employer-organized associations, or providing
10 coverage solely for the employees, retired employees, directors and their spouses
11 and dependents of the members of one (1) or more employer-organized
12 associations;

13 (14) "Excepted benefits" means benefits under one (1) or more, or any combination
14 thereof, of the following:

15 (a) Coverage only for accident, including accidental death and dismemberment,
16 or disability income insurance, or any combination thereof;

17 (b) Coverage issued as a supplement to liability insurance;

18 (c) Liability insurance, including general liability insurance and automobile
19 liability insurance;

20 (d) Workers' compensation or similar insurance;

21 (e) Automobile medical payment insurance;

22 (f) Credit-only insurance;

23 (g) Coverage for on-site medical clinics;

24 (h) Other similar insurance coverage, specified in administrative regulations,
25 under which benefits for medical care are secondary or incidental to other
26 insurance benefits;

27 (i) Limited scope dental or vision benefits;

- 1 (j) Benefits for long-term care, nursing home care, home health care, community-
2 based care, or any combination thereof;
- 3 (k) Such other similar, limited benefits as are specified in administrative
4 regulations;
- 5 (l) Coverage only for a specified disease or illness;
- 6 (m) Hospital indemnity or other fixed indemnity insurance;
- 7 (n) Benefits offered as Medicare supplemental health insurance, as defined under
8 section 1882(g)(1) of the Social Security Act;
- 9 (o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10,
10 United States Code;
- 11 (p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is
12 supplemental to coverage under a group health plan; and
- 13 (q) Health flexible spending arrangements;
- 14 (15) "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec.
15 1002(32);
- 16 (16) "Group health plan" means a plan, including a self-insured plan, of or contributed to
17 by an employer, including a self-employed person, or employee organization, to
18 provide health care directly or otherwise to the employees, former employees, the
19 employer, or others associated or formerly associated with the employer in a
20 business relationship, or their families;
- 21 (17) "Guaranteed acceptance program participating insurer" means an insurer that is
22 required to or has agreed to offer health benefit plans in the individual market to
23 guaranteed acceptance program qualified individuals under KRS 304.17A-400 to
24 304.17A-480;
- 25 (18) "Guaranteed acceptance program plan" means a health benefit plan in the individual
26 market issued by an insurer that provides health benefits to a guaranteed acceptance
27 program qualified individual and is eligible for assessment and refunds under the

1 guaranteed acceptance program under KRS 304.17A-400 to 304.17A-480;

2 (19) "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance
3 Program established and operated under KRS 304.17A-400 to 304.17A-480;

4 (20) "Guaranteed acceptance program qualified individual" means an individual who, on
5 or before December 31, 2000:

6 (a) Is not an eligible individual;

7 (b) Is not eligible for or covered by other health benefit plan coverage or who is a
8 spouse or a dependent of an individual who:

9 1. Waived coverage under KRS 304.17A-210(2); or

10 2. Did not elect family coverage that was available through the association
11 or group market;

12 (c) Within the previous three (3) years has been diagnosed with or treated for a
13 high-cost condition or has had benefits paid under a health benefit plan for a
14 high-cost condition, or is a high risk individual as defined by the underwriting
15 criteria applied by an insurer under the alternative underwriting mechanism
16 established in KRS 304.17A-430(3);

17 (d) Has been a resident of Kentucky for at least twelve (12) months immediately
18 preceding the effective date of the policy; and

19 (e) Has not had his or her most recent coverage under any health benefit plan
20 terminated or nonrenewed because of any of the following:

21 1. The individual failed to pay premiums or contributions in accordance
22 with the terms of the plan or the insurer had not received timely
23 premium payments;

24 2. The individual performed an act or practice that constitutes fraud or
25 made an intentional misrepresentation of material fact under the terms of
26 the coverage; or

27 3. The individual engaged in intentional and abusive noncompliance with

1 health benefit plan provisions;

2 (21) "Guaranteed acceptance plan supporting insurer" means either an insurer, on or
3 before December 31, 2000, that is not a guaranteed acceptance plan participating
4 insurer or is a stop loss carrier, on or before December 31, 2000, provided that a
5 guaranteed acceptance plan supporting insurer shall not include an employer-
6 sponsored self-insured health benefit plan exempted by ERISA;

7 (22) "Health benefit plan" means any hospital or medical expense policy or certificate;
8 nonprofit hospital, medical-surgical, and health service corporation contract or
9 certificate; provider sponsored integrated health delivery network; a self-insured
10 plan or a plan provided by a multiple employer welfare arrangement, to the extent
11 permitted by ERISA; health maintenance organization contract; or any health
12 benefit plan that affects the rights of a Kentucky insured and bears a reasonable
13 relation to Kentucky, whether delivered or issued for delivery in Kentucky, and
14 does not include policies covering only accident, credit, dental, disability income,
15 fixed indemnity medical expense reimbursement policy, long-term care, Medicare
16 supplement, specified disease, vision care, coverage issued as a supplement to
17 liability insurance, insurance arising out of a workers' compensation or similar law,
18 automobile medical-payment insurance, insurance under which benefits are payable
19 with or without regard to fault and that is statutorily required to be contained in any
20 liability insurance policy or equivalent self-insurance, short-term coverage, student
21 health insurance offered by a Kentucky-licensed insurer under written contract with
22 a university or college whose students it proposes to insure, medical expense
23 reimbursement policies specifically designed to fill gaps in primary coverage,
24 coinsurance, or deductibles and provided under a separate policy, certificate, or
25 contract, or coverage supplemental to the coverage provided under Chapter 55 of
26 Title 10, United States Code, or limited health service benefit plans, or direct
27 primary care agreements established under KRS 311.6201, 311.6202, 314.198, and

- 1 314.199;
- 2 (23) "Health care provider" or "provider" means any facility or service required to be
3 licensed pursuant to KRS Chapter 216B, a pharmacist as defined pursuant to KRS
4 Chapter 315, or home medical equipment and services provider as defined pursuant
5 to KRS 309.402, and any of the following independent practicing practitioners:
- 6 (a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;
7 (b) Chiropractors licensed under KRS Chapter 312;
8 (c) Dentists licensed under KRS Chapter 313;
9 (d) Optometrists licensed under KRS Chapter 320;
10 (e) Physician assistants regulated under KRS Chapter 311;
11 (f) Advanced practice registered nurses licensed under KRS Chapter 314; and
12 (g) Other health care practitioners as determined by the department by
13 administrative regulations promulgated under KRS Chapter 13A;
- 14 (24) (a) "High-cost condition," pursuant to the Kentucky Guaranteed Acceptance
15 Program, means a covered condition in an individual policy as listed in
16 paragraph (c) of this subsection or as added by the commissioner in
17 accordance with KRS 304.17A-280, but only to the extent that the condition
18 exceeds the numerical score or rating established pursuant to uniform
19 underwriting standards prescribed by the commissioner under paragraph (b) of
20 this subsection that account for the severity of the condition and the cost
21 associated with treating that condition.
- 22 (b) The commissioner by administrative regulation shall establish uniform
23 underwriting standards and a score or rating above which a condition is
24 considered to be high-cost by using:
- 25 1. Codes in the most recent version of the "International Classification of
26 Diseases" that correspond to the medical conditions in paragraph (c) of
27 this subsection and the costs for administering treatment for the

- 1 conditions represented by those codes; and
- 2 2. The most recent version of the questionnaire incorporated in a national
3 underwriting guide generally accepted in the insurance industry as
4 designated by the commissioner, the scoring scale for which shall be
5 established by the commissioner.
- 6 (c) The diagnosed medical conditions are: acquired immune deficiency syndrome
7 (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver,
8 coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia,
9 hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes,
10 leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis,
11 muscular dystrophy, myasthenia gravis, myotonia, open heart surgery,
12 Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia,
13 stroke, syringomyelia, and Wilson's disease;
- 14 (25) "Index rate" means, for each class of business as to a rating period, the arithmetic
15 average of the applicable base premium rate and the corresponding highest premium
16 rate;
- 17 (26) "Individual market" means the market for the health insurance coverage offered to
18 individuals other than in connection with a group health plan. The individual market
19 includes an association plan that is not employer related, issued to individuals on an
20 individually underwritten basis, other than an employer-organized association or a
21 bona fide association, that has been organized and is maintained in good faith for
22 purposes other than obtaining insurance for its members and that has a constitution
23 and bylaws;
- 24 (27) "Insurer" means any insurance company; health maintenance organization; self-
25 insurer or multiple employer welfare arrangement not exempt from state regulation
26 by ERISA; provider-sponsored integrated health delivery network; self-insured
27 employer-organized association, or nonprofit hospital, medical-surgical, dental, or

1 health service corporation authorized to transact health insurance business in
2 Kentucky;

3 (28) "Insurer-controlled" means that the commissioner has found, in an administrative
4 hearing called specifically for that purpose, that an insurer has or had a substantial
5 involvement in the organization or day-to-day operation of the entity for the
6 principal purpose of creating a device, arrangement, or scheme by which the insurer
7 segments employer groups according to their actual or anticipated health status or
8 actual or projected health insurance premiums;

9 (29) "Kentucky Access" has the meaning provided in KRS 304.17B-001(19)(~~(17)~~);

10 (30) "Large group" means:

11 (a) An employer with fifty-one (51) or more employees;

12 (b) An affiliated group with fifty-one (51) or more eligible members; or

13 (c) An employer-organized association that is a bona fide association as defined
14 in subsection (5) of this section;

15 (31) "Managed care" means systems or techniques generally used by third-party payors
16 or their agents to affect access to and control payment for health care services and
17 that integrate the financing and delivery of appropriate health care services to
18 covered persons by arrangements with participating providers who are selected to
19 participate on the basis of explicit standards for furnishing a comprehensive set of
20 health care services and financial incentives for covered persons using the
21 participating providers and procedures provided for in the plan;

22 (32) "Market segment" means the portion of the market covering one (1) of the
23 following:

24 (a) Individual;

25 (b) Small group;

26 (c) Large group; or

27 (d) Association;

- 1 (33) "Participant" means any employee or former employee of an employer, or any
2 member or former member of an employee organization, who is or may become
3 eligible to receive a benefit of any type from an employee benefit plan which covers
4 employees of the employer or members of the organization, or whose beneficiaries
5 may be eligible to receive any benefit as established in Section 3(7) of ERISA;
- 6 (34) "Preventive services" means medical services for the early detection of disease that
7 are associated with substantial reduction in morbidity and mortality;
- 8 (35) "Provider network" means an affiliated group of varied health care providers that is
9 established to provide a continuum of health care services to individuals;
- 10 (36) "Provider-sponsored integrated health delivery network" means any provider-
11 sponsored integrated health delivery network created and qualified under KRS
12 304.17A-300 and KRS 304.17A-310;
- 13 (37) "Purchaser" means an individual, organization, employer, association, or the
14 Commonwealth that makes health benefit purchasing decisions on behalf of a group
15 of individuals;
- 16 (38) "Rating period" means the calendar period for which premium rates are in effect. A
17 rating period shall not be required to be a calendar year;
- 18 (39) "Restricted provider network" means a health benefit plan that conditions the
19 payment of benefits, in whole or in part, on the use of the providers that have
20 entered into a contractual arrangement with the insurer to provide health care
21 services to covered individuals;
- 22 (40) "Self-insured plan" means a group health insurance plan in which the sponsoring
23 organization assumes the financial risk of paying for covered services provided to
24 its enrollees;
- 25 (41) "Small employer" means, in connection with a group health plan with respect to a
26 calendar year and a plan year, an employer who employed an average of at least two
27 (2) but not more than fifty (50) employees on business days during the preceding

1 calendar year and who employs at least two (2) employees on the first day of the
2 plan year;

3 (42) "Small group" means:

4 (a) A small employer with two (2) to fifty (50) employees; or

5 (b) An affiliated group or association with two (2) to fifty (50) eligible members;

6 (43) "Standard benefit plan" means the plan identified in KRS 304.17A-250; and

7 (44) "Telehealth" has the meaning provided in KRS 311.550.

8 ➔Section 28. The General Assembly hereby confirms Executive Order 2017-269,
9 dated May 1, 2017, to the extent that it is not otherwise confirmed or superseded by this
10 Act, which reorganizes the Cabinet for Health and Family Services and the Public
11 Protection Cabinet by:

12 (1) Creating the Kentucky Office of Health Benefit Exchange within the Cabinet for
13 Health and Family Services. The office shall be headed by a director appointed by
14 the Governor and shall include the Division of Health Care Policy, Education, and
15 Outreach and the Division of Operations, Administration and Kentucky Access.
16 Both the Division of Health Care Policy, Education, and Outreach and the Division
17 of Operations, Administration and Kentucky Access shall be headed by a director
18 appointed by the Secretary of the Cabinet for Health and Family Services pursuant
19 to KRS 12.050;

20 (2) Abolishing the Kentucky Health Care Improvement Authority as an organizational
21 unit and administrative body attached to the Department of Insurance in the Public
22 Protection Cabinet and recreating the authority as an entity attached to the Cabinet
23 for Health and Family Services for administrative purposes; and

24 (3) Abolishing the Division of Kentucky Access within the Department of Insurance in
25 the Public Protection Cabinet and recreating the division as an entity attached to the
26 Cabinet for Health and Family Services.

27 ➔Section 29. In order to reflect the reorganization effectuated by this Act, the

1 reviser of statutes shall replace references in the Kentucky Revised Statutes to the
2 agencies, subagencies, and officers established by this Act. The reviser of statutes shall
3 base these actions on the functions assigned to the new entities by this Act and may
4 consult with officers of the affected agencies, or their designees, to receive suggestions.