AN ACT relating to prescription drugs.

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

➔Section 1. KRS 304.17A-164 is amended to read as follows:

(1) As used in this section:

(a) "Cost sharing"***:***

***1.*** Means the cost to an insured under a health plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan~~[, which may be subject to annual limitations on cost sharing, including those imposed under 42 U.S.C. secs. 18022(c) and 300gg-6(b),]~~ in order for the insured to receive a specific health care ***benefit***~~[service]~~ covered by the plan; ***and***

***2. May be subject to annual limitations, including those imposed under 42 U.S.C. secs. 18022(c) and 300gg-6(b);***

(b) "Generic alternative" means a drug that is designated to be therapeutically equivalent by the United States Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations, except that a drug shall not be considered a generic alternative until the drug is nationally available;

(c) "Health plan":

1. Means a policy, contract, certificate, or agreement offered or issued by an insurer to provide, deliver, arrange for, pay for, or reimburse any of the cost of health care~~[ services]~~; and

2. Includes a health benefit plan;

(d) "Insured" means any individual who is enrolled in a health plan and on whose behalf the insurer is obligated to pay for or provide health care~~[ services]~~;

(e) "Insurer"~~[ includes]~~:

1. ***Has the same meaning as in KRS 304.17A-005***~~[An insurer offering a health plan providing coverage for pharmacy benefits]~~; ***and***~~[or]~~

2. ***Includes limited health service organizations as defined in KRS 304.38A-010***~~[Any other administrator of pharmacy benefits under a health plan]~~;

(f) ~~["Person" means a natural person, corporation, mutual company, unincorporated association, partnership, joint venture, limited liability company, trust, estate, foundation, nonprofit corporation, unincorporated organization, government, or governmental subdivision or agency;~~

~~(g) ]~~"Pharmacy" includes:

1. A pharmacy, as defined in KRS Chapter 315;

2. A pharmacist, as defined in KRS Chapter 315; and

3. Any employee of a pharmacy or pharmacist;~~[ and]~~

***(g)***~~[(h)]~~ "Pharmacy benefit manager" has the same meaning as in KRS ***304.9-020***~~[304.17A-161]~~***;***

***(h) "Price protection rebate" means a negotiated price concession that accrues directly or indirectly to an insurer, pharmacy benefit manager, or any other administrator of pharmacy benefits, or another party on behalf of an insurer, pharmacy benefit manager, or any other administrator of pharmacy benefits, if there is an increase in the wholesale acquisition cost of a prescription drug above a specified threshold; and***

***(i) "Rebate" means a discount or other negotiated price concession, including a base price concession whether described as a rebate or otherwise, a price protection rebate, a performance-based price concession, and any reasonable estimates of negotiated price concessions, fees, or other administrative costs that may accrue directly or indirectly, or are anticipated to be passed through, to an insurer, pharmacy benefit manager, or any***

***other administrator of pharmacy benefits from a manufacturer, dispensing pharmacy, or other party in connection with the dispensing or administration of a prescription drug to reduce the insurer's, pharmacy benefit manager's, or other administrator's liability for the prescription drug.***

(2) ***(a) As used in this subsection, "cost sharing" does not include copayments.***

***(b) To the extent permitted under federal law and except as provided in subsection (5) of this section:***

***1. An insured's cost sharing for a prescription drug shall be calculated at the point of sale; and***

***2. All rebates received or estimated to be received by an insurer, pharmacy benefit manager, or any other administrator of pharmacy benefits in connection with the dispensing or administration of a prescription drug to an insured shall be passed through as follows:***

***a. The cost sharing charged to the insured shall be calculated based on a prescription drug price that is reduced by at least eighty-five percent (85%) of the rebates received or estimated to be received; and***

***b. Any rebates not used to reduce cost sharing under subdivision a. of this subparagraph shall be passed on to the health plan and used to reduce the premiums charged by the health plan to insureds.***

***(c) Subject to the requirements of paragraph (d) of this subsection, the commissioner may:***

***1. Require an insurer, pharmacy benefit manager, or any other administrator of pharmacy benefits, including the insurer's, pharmacy benefit manager's, or other administrator's agent, to report any***

***information necessary to determine compliance with this subsection; and***

***2. Otherwise use the information reported under subparagraph 1. of this paragraph in furtherance of any regulatory action authorized under this chapter.***

***(d) 1. In complying with paragraphs (b) and (c) of this subsection, an insurer, pharmacy benefit manager, or any other administrator of pharmacy benefits, including the insurer's, pharmacy benefit manager's, or other administrator's agent, shall not publish or otherwise reveal information regarding the actual amounts of rebates the insurer, pharmacy benefit manager, or other administrator receives on a product-specific, manufacturer-specific, or pharmacy-specific basis.***

***2. The information referenced in subparagraph 1. of this paragraph shall:***

***a. Be protected as a trade secret under KRS 365.880 to 365.900;***

***b. Not be a public record subject to disclosure under KRS 61.870 to 61.884; and***

***c. Not otherwise be disclosed by the insurer, pharmacy benefit manager, or other administrator of pharmacy benefits, including the insurer's, pharmacy benefit manager's, or other administrator's agent:***

***i. Directly or indirectly;***

***ii. In a manner that would allow for identification of an individual product, therapeutic class of products, or manufacturer; or***

***iii. In a manner that would have the potential to compromise***

***the financial, competitive, or proprietary nature of the information.***

***3. An insurer, pharmacy benefit manager, or any other administrator of pharmacy benefits shall impose the confidentiality requirements of this paragraph on any vendor or third party that:***

***a. Performs health care or administrative services on behalf of the insurer, pharmacy benefit manager, or other administrator; and***

***b. May receive or have access to rebate information.***

***(3)*** To the extent permitted under federal law and except as provided in subsection ***(5)***~~[(4)]~~ of this section, an insurer~~[ issuing or renewing a health plan on or after January 1, 2022]~~,~~[ or a]~~ pharmacy benefit manager, ***or any other administrator of pharmacy benefits*** shall not:

(a) Require an insured purchasing a prescription drug to pay a cost-sharing amount greater than the amount the insured would pay for the drug if he or she were to purchase the drug without coverage;

(b) ***1. Except as provided in subparagraph 2. of this paragraph,*** exclude any cost-sharing amounts paid by an insured**,** or on behalf of ***the***~~[an]~~ insured~~[ by another person]~~**,** for a prescription drug, including any amount paid under paragraph (a) of this subsection, when calculating an insured's contribution to any applicable cost-sharing requirement.

***2.*** The requirements of this paragraph shall not apply ~~[:~~

~~1. ]~~in the case of a prescription drug for which there is a generic alternative, unless the insured has obtained access to the brand prescription drug through prior authorization, a step therapy protocol, or the insurer's exceptions and appeals process;~~[ or~~

~~2. To any fully insured health benefit plan or self-insured plan provided to any employee under KRS 18A.225;]~~

(c) Prohibit a pharmacy from discussing any information under subsection ***(4)***~~[(3)]~~ of this section; or

(d) Impose a penalty on a pharmacy for complying with this section.

***(4)***~~[(3)]~~ A pharmacist shall have the right to provide an insured information regarding the applicable limitations on his or her cost sharing pursuant to this section for a prescription drug.

***(5)***~~[(4)]~~ If the application of any requirement of subsection (2) ***or (3)***(b) of this section would be the sole cause of a health plan's failure to qualify as a Health Savings Account-qualified High Deductible Health Plan under 26 U.S.C. sec. 223, as amended, then the requirement shall not apply to that health plan until the minimum deductible under 26 U.S.C. sec. 223, as amended, is satisfied.

***(6) Nothing in this section shall be construed to prohibit an insurer, pharmacy benefit manager, or any other administrator of pharmacy benefits from imposing a cost-sharing amount that is less than the amount permitted under this section.***

➔SECTION 2. A NEW SECTION OF KRS 365.880 TO 365.900 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section, the following have the same meaning as in Section 1 of this Act:***

***(a) "Insurer";***

***(b) "Pharmacy benefit manager"; and***

***(c) "Rebate."***

***(2) The actual amount of rebates received by an insurer, pharmacy benefit manager, or any other administrator of pharmacy benefits on a product-specific, manufacturer-specific, or pharmacy-specific basis shall be a trade secret.***

***(3) Compliance with Section 1 of this Act shall not be construed to violate KRS 365.880 to 365.900.***

➔Section 3. KRS 304.17C-125 is amended to read as follows:

The following shall apply to limited health service benefit plans, including any limited health service contract, as defined in KRS 304.38A-010:

(1) KRS 304.17A-129;

(2) KRS 304.17A-262;~~[ and]~~

(3) KRS 304.17A-591 to 304.17A-599***; and***

***(4) Section 1 of this Act***.

➔Section 4. KRS 304.38A-115 is amended to read as follows:

Limited health service organizations shall comply with:

(1) KRS 304.17A-262;

(2) KRS 304.17A-265;~~[ and]~~

(3) KRS 304.17A-591 to 304.17A-599***; and***

***(4) Section 1 of this Act***.

➔Section 5. KRS 18A.225 is amended to read as follows:

(1) (a) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an

optional retirement plan authorized by KRS 161.567; or is eligible to participate in a retirement plan established by an employer who ceases participating in the Kentucky Employees Retirement System pursuant to KRS 61.522 whose employees participated in the health insurance plans administered by the Personnel Cabinet prior to the employer's effective cessation date in the Kentucky Employees Retirement System;

2. Any certified or classified employee of a local board of education or a public charter school as defined in KRS 160.1590;

3. Any elected member of a local board of education;

4. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, County Employees Retirement System, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(2)(b)3. and 78.5536(2)(b)3., unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and

5. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program;

(b) The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS 304.17A-005;

(c) The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and

(d) The term "managed care plan" for the purposes of this section means a

managed care plan as defined in KRS 304.17A-500.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers authorized to do business in this state, a group health benefit plan that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (13) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available

during annual open enrollment.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions the commissioner of insurance approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (20) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program and as otherwise provided in KRS 61.702(2)(b)3.b. and 78.5536(2)(b)3.b.

(d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth

shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including but not limited to loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.

(h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.

(3) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the employee, by payroll deduction or

otherwise;

(b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

(4) If an employee moves his or her place of residence or employment out of the service area of an insurer offering a managed health care plan, under which he or she has elected coverage, into either the service area of another managed health care plan or into an area of the Commonwealth not within a managed health care plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health benefit plan.

(5) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.

(6) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.

(7) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he or she has been determined to be eligible for federal Social Security disability benefits.

(8) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.

(9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or the secretary's designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(10) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for

obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.

(11) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(12) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

(13) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.

(b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.

(c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

(14) The policy or policies provided to state employees or their dependents pursuant to

this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars ($1,400) every thirty-six (36) months pursuant to KRS 304.17A-132.

(15) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for the diagnosis and treatment of autism spectrum disorders consistent with KRS 304.17A-142.

(16) Any policy provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining amino acid-based elemental formula pursuant to KRS 304.17A-258.

(17) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

(18) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

(19) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or

by larger geographic areas.

(20) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:

(a) The regional rating bid scenario shall not include a request for bid on a statewide option;

(b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;

(c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;

(d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and

(e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.

(21) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of

coverage to optometrists as allowed for those services rendered by physicians or osteopaths.

(22) Any fully insured health benefit plan or self-insured plan issued or renewed to public employees pursuant to this section shall comply with:

(a) KRS 304.12-237;

(b) KRS 304.17A-270 and 304.17A-525;

(c) KRS 304.17A-600 to 304.17A-633;

(d) KRS 205.593;

(e) KRS 304.17A-700 to 304.17A-730;

(f) KRS 304.14-135;

(g) KRS 304.17A-580 and 304.17A-641;

(h) KRS 304.99-123;

(i) KRS 304.17A-138;

(j) KRS 304.17A-148;

(k) KRS 304.17A-163 and 304.17A-1631;

(l) KRS 304.17A-265;

(m) KRS 304.17A-261;

(n) KRS 304.17A-262;

(o) KRS 304.17A-145;

(p) KRS 304.17A-129;

(q) KRS 304.17A-133;

(r) KRS 304.17A-264;~~[ and]~~

(s) ***Section 1 of this Act; and***

***(t)*** Administrative regulations promulgated pursuant to statutes listed in this subsection.

(23) (a) Any fully insured health benefit plan or self-insured plan issued or renewed to public employees pursuant to this section shall provide a special enrollment

period to pregnant women who are eligible for coverage in accordance with the requirements set forth in KRS 304.17-182.

(b) The Department of Employee Insurance shall, at or before the time a public employee is initially offered the opportunity to enroll in the plan or coverage, provide the employee a notice of the special enrollment rights under this subsection.

➔Section 6. KRS 164.2871 is amended to read as follows:

(1) The governing board of each state postsecondary educational institution is authorized to purchase liability insurance for the protection of the individual members of the governing board, faculty, and staff of such institutions from liability for acts and omissions committed in the course and scope of the individual's employment or service. Each institution may purchase the type and amount of liability coverage deemed to best serve the interest of such institution.

(2) All retirement annuity allowances accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court. Except retirement benefits accrued or accruing to any employee of a state postsecondary educational institution through a retirement program sponsored by the state postsecondary educational institution on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(3) Except as provided in KRS Chapter 44, the purchase of liability insurance for members of governing boards, faculty and staff of institutions of higher education in this state shall not be construed to be a waiver of sovereign immunity or any other immunity or privilege.

(4) The governing board of each state postsecondary education institution is authorized to provide a self-insured employer group health plan to its employees, which plan shall:

(a) Conform to the requirements of Subtitle 32 of KRS Chapter 304; and

(b) Except as provided in subsection (5) of this section, be exempt from conformity with Subtitle 17A of KRS Chapter 304.

(5) A self-insured employer group health plan provided by the governing board of a state postsecondary education institution to its employees shall comply with:

(a) KRS 304.17A-129;

(b) KRS 304.17A-133;

(c) KRS 304.17A-145;

(d) KRS 304.17A-163 and 304.17A-1631;

(e) KRS 304.17A-261;

(f) KRS 304.17A-262;

(g) KRS 304.17A-264;~~[ and]~~

(h) KRS 304.17A-265***; and***

***(i) Subsection (2) of Section 1 of this Act***.

(6) (a) A self-insured employer group health plan provided by the governing board of a state postsecondary education institution to its employees shall provide a special enrollment period to pregnant women who are eligible for coverage in accordance with the requirements set forth in KRS 304.17-182.

(b) The governing board of a state postsecondary education institution shall, at or before the time an employee is initially offered the opportunity to enroll in the plan or coverage, provide the employee a notice of the special enrollment rights under this subsection.

➔Section 7. This Act applies to health plans issued or renewed on or after January 1, 2026.

➔Section 8. This Act takes effect January 1, 2026.