

1 AN ACT relating to the Department of Workers' Claims and declaring an  
2 emergency.

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

4 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO  
5 READ AS FOLLOWS:

6 *(1) There is hereby created the Department of Workers' Claims administratively*  
7 *attached to the Office of the Governor, which shall be headed by a commissioner*  
8 *appointed by the Governor and confirmed by the Senate in accordance with*  
9 *Section 6 of this Act.*

10 *(2) The department shall be divided for administrative purposes into the:*

11 *(a) Office of the Commissioner;*

12 *(b) Office of General Counsel;*

13 *(c) Office of Administrative Law Judges;*

14 *(d) Division of Claims Processing;*

15 *(e) Division of Security and Compliance;*

16 *(f) Division of Workers' Compensation Funds; and*

17 *(g) Division of Specialist and Medical Services.*

18 *(3) The Office of Administrative Law Judges shall be headed by a chief*  
19 *administrative law judge appointed in accordance with Section 7 of this Act.*

20 *(4) Each division in the department shall be headed by a director appointed by the*  
21 *commissioner with the approval of the Governor in accordance with KRS 12.050.*

22 *(5) The Workers' Compensation Board shall be attached to the Department of*  
23 *Workers' Claims for administrative purposes only.*

24 ➔Section 2. KRS 342.0011 is amended to read as follows:

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

26 (1) "Injury" means any work-related traumatic event or series of traumatic events,  
27 including cumulative trauma, arising out of and in the course of employment which

1 is the proximate cause producing a harmful change in the human organism  
2 evidenced by objective medical findings. "Injury" does not include the effects of the  
3 natural aging process, and does not include any communicable disease unless the  
4 risk of contracting the disease is increased by the nature of the employment.  
5 "Injury" when used generally, unless the context indicates otherwise, shall include  
6 an occupational disease and damage to a prosthetic appliance, but shall not include  
7 a psychological, psychiatric, or stress-related change in the human organism, unless  
8 it is a direct result of a physical injury;

9 (2) "Occupational disease" means a disease arising out of and in the course of the  
10 employment;

11 (3) An occupational disease as defined in this chapter shall be deemed to arise out of  
12 the employment if there is apparent to the rational mind, upon consideration of all  
13 the circumstances, a causal connection between the conditions under which the  
14 work is performed and the occupational disease, and which can be seen to have  
15 followed as a natural incident to the work as a result of the exposure occasioned by  
16 the nature of the employment and which can be fairly traced to the employment as  
17 the proximate cause. The occupational disease shall be incidental to the character of  
18 the business and not independent of the relationship of employer and employee. An  
19 occupational disease need not have been foreseen or expected but, after its  
20 contraction, it must appear to be related to a risk connected with the employment  
21 and to have flowed from that source as a rational consequence;

22 (4) "Injurious exposure" shall mean that exposure to occupational hazard which would,  
23 independently of any other cause whatsoever, produce or cause the disease for  
24 which the claim is made;

25 (5) "Death" means death resulting from an injury or occupational disease;

26 (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the  
27 liability of employers under this chapter and includes a self-insurer;

- 1 (7) "Self-insurer" is an employer who has been authorized under the provisions of this  
2 chapter to carry his own liability on his employees covered by this chapter;
- 3 (8) "Department" means the Department of Workers' Claims administratively attached  
4 to the office of the Governor~~[in the Education and Labor Cabinet];~~
- 5 (9) "Commissioner" means the commissioner of the Department of Workers' Claims~~[~~  
6 ~~under the direction and supervision of the secretary of the Education and Labor~~  
7 ~~Cabinet];~~
- 8 (10) "Board" means the Workers' Compensation Board;
- 9 (11) (a) "Temporary total disability" means the condition of an employee who has not  
10 reached maximum medical improvement from an injury and has not reached a  
11 level of improvement that would permit a return to employment;
- 12 (b) "Permanent partial disability" means the condition of an employee who, due  
13 to an injury, has a permanent disability rating but retains the ability to work;  
14 and
- 15 (c) "Permanent total disability" means the condition of an employee who, due to  
16 an injury, has a permanent disability rating and has a complete and permanent  
17 inability to perform any type of work as a result of an injury, except that total  
18 disability shall be irrebuttably presumed to exist for an injury that results in:
- 19 1. Total and permanent loss of sight in both eyes;
  - 20 2. Loss of both feet at or above the ankle;
  - 21 3. Loss of both hands at or above the wrist;
  - 22 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at  
23 or above the wrist;
  - 24 5. Permanent and complete paralysis of both arms, both legs, or one (1)  
25 arm and one (1) leg;
  - 26 6. Incurable insanity or imbecility; or
  - 27 7. Total loss of hearing;

- 1 (12) "Income benefits" means payments made under the provisions of this chapter to the  
2 disabled worker or his dependents in case of death, excluding medical and related  
3 benefits;
- 4 (13) "Medical and related benefits" means payments made for medical, hospital, burial,  
5 and other services as provided in this chapter, other than income benefits;
- 6 (14) "Compensation" means all payments made under the provisions of this chapter  
7 representing the sum of income benefits and medical and related benefits;
- 8 (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical  
9 rehabilitation services, medicines, and fittings for artificial or prosthetic devices;
- 10 (16) "Person" means any individual, partnership, limited partnership, limited liability  
11 company, firm, association, trust, joint venture, corporation, or legal representative  
12 thereof;
- 13 (17) "Wages" means, in addition to money payments for services rendered, the  
14 reasonable value of board, rent, housing, lodging, fuel, or similar advantages  
15 received from the employer, and gratuities received in the course of employment  
16 from persons other than the employer as evidenced by the employee's federal and  
17 state tax returns;
- 18 (18) "Agriculture" means the operation of farm premises, including the planting,  
19 cultivation, producing, growing, harvesting, and preparation for market of  
20 agricultural or horticultural commodities thereon, the raising of livestock for food  
21 products and for racing purposes, and poultry thereon, and any work performed as  
22 an incident to or in conjunction with the farm operations, including the sale of  
23 produce at on-site markets and the processing of produce for sale at on-site markets.  
24 It shall not include the commercial processing, packing, drying, storing, or canning  
25 of such commodities for market, or making cheese or butter or other dairy products  
26 for market;
- 27 (19) "Beneficiary" means any person who is entitled to income benefits or medical and

1 related benefits under this chapter;

2 (20) "United States," when used in a geographic sense, means the several states, the  
3 District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the  
4 territories of the United States;

5 (21) "Alien" means a person who is not a citizen, a national, or a resident of the United  
6 States or Canada. Any person not a citizen or national of the United States who  
7 relinquishes or is about to relinquish his residence in the United States shall be  
8 regarded as an alien;

9 (22) "Insurance carrier" means every insurance carrier or insurance company authorized  
10 to do business in the Commonwealth writing workers' compensation insurance  
11 coverage and includes the Kentucky Employers Mutual Insurance Authority and  
12 every self-insured group operating under the provisions of this chapter;

13 (23) (a) "Severance or processing of coal" means all activities performed in the  
14 Commonwealth at underground, auger, and surface mining sites; all activities  
15 performed at tipple or processing plants that clean, break, size, or treat coal;  
16 and all activities performed at coal loading facilities for trucks, railroads, and  
17 barges. Severance or processing of coal shall not include acts performed by a  
18 final consumer if the acts are performed at the site of final consumption.

19 (b) "Engaged in severance or processing of coal" shall include all individuals,  
20 partnerships, limited partnerships, limited liability companies, corporations,  
21 joint ventures, associations, or any other business entity in the Commonwealth  
22 which has employees on its payroll who perform any of the acts stated in  
23 paragraph (a) of this subsection, regardless of whether the acts are performed  
24 as owner of the coal or on a contract or fee basis for the actual owner of the  
25 coal. A business entity engaged in the severance or processing of coal,  
26 including but not limited to administrative or selling functions, shall be  
27 considered wholly engaged in the severance or processing of coal for the

1           purpose of this chapter. However, a business entity which is engaged in a  
2           separate business activity not related to coal, for which a separate premium  
3           charge is not made, shall be deemed to be engaged in the severance or  
4           processing of coal only to the extent that the number of employees engaged in  
5           the severance or processing of coal bears to the total number of employees.  
6           Any employee who is involved in the business of severing or processing of  
7           coal and business activities not related to coal shall be prorated based on the  
8           time involved in severance or processing of coal bears to his total time;

9       (24) "Premium" for every self-insured group means any and all assessments levied on its  
10       members by such group or contributed to it by the members thereof. For special  
11       fund assessment purposes, "premium" also includes any and all membership dues,  
12       fees, or other payments by members of the group to associations or other entities  
13       used for underwriting, claims handling, loss control, premium audit, actuarial, or  
14       other services associated with the maintenance or operation of the self-insurance  
15       group;

16       (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for  
17       insurance companies means direct written premiums as reported in the annual  
18       statement to the Department of Insurance by insurance companies, except that  
19       "premiums received" includes premiums charged off or deferred, and, on  
20       insurance policies or other evidence of coverage with provisions for  
21       deductibles, the calculated cost for coverage, including experience  
22       modification and premium surcharge or discount, prior to any reduction for  
23       deductibles. The rates, factors, and methods used to calculate the cost for  
24       coverage under this paragraph for insurance policies or other evidence of  
25       coverage with provisions for deductibles shall be the same rates, factors, and  
26       methods normally used by the insurance company in Kentucky to calculate  
27       the cost for coverage for insurance policies or other evidence of coverage

1 without provisions for deductibles, except that, for insurance policies or other  
2 evidence of coverage with provisions for deductibles effective on or after  
3 January 1, 1995, the calculated cost for coverage shall not include any  
4 schedule rating modification, debits, or credits. For policies with provisions  
5 for deductibles with effective dates on or after January 1, 1995, assessments  
6 shall be imposed on premiums received as calculated by the deductible  
7 program adjustment. The cost for coverage calculated under this paragraph by  
8 insurance companies that issue only deductible insurance policies in Kentucky  
9 shall be actuarially adequate to cover the entire liability of the employer for  
10 compensation under this chapter, including all expenses and allowances  
11 normally used to calculate the cost for coverage. For policies with provisions  
12 for deductibles with effective dates of May 6, 1993, through December 31,  
13 1993, for which the insurance company did not report premiums and remit  
14 special fund assessments based on the calculated cost for coverage prior to the  
15 reduction for deductibles, "premiums received" includes the initial premium  
16 plus any reimbursements invoiced for losses, expenses, and fees charged  
17 under the deductibles. The special fund assessment rates in effect for  
18 reimbursements invoiced for losses, expenses, or fees charged under the  
19 deductibles shall be those percentages in effect on the effective date of the  
20 insurance policy. For policies covering covered employees having a co-  
21 employment relationship with a professional employer organization and a  
22 client as defined in KRS Chapter 336, "premiums received" means premiums  
23 calculated using the experience modification factor of each client as defined  
24 in KRS Chapter 336 for each covered employee for that portion of the payroll  
25 pertaining to the covered employee.

- 26 (b) "Direct written premium" for insurance companies means the gross premium  
27 written less return premiums and premiums on policies not taken but

1 including policy and membership fees.

2 (c) "Premium," for policies effective on or after January 1, 1994, for insurance  
3 companies means all consideration, whether designated as premium or  
4 otherwise, for workers' compensation insurance paid to an insurance company  
5 or its representative, including, on insurance policies with provisions for  
6 deductibles, the calculated cost for coverage, including experience  
7 modification and premium surcharge or discount, prior to any reduction for  
8 deductibles. The rates, factors, and methods used to calculate the cost for  
9 coverage under this paragraph for insurance policies or other evidence of  
10 coverage with provisions for deductibles shall be the same rates, factors, and  
11 methods normally used by the insurance company in Kentucky to calculate  
12 the cost for coverage for insurance policies or other evidence of coverage  
13 without provisions for deductibles, except that, for insurance policies or other  
14 evidence of coverage with provisions for deductibles effective on or after  
15 January 1, 1995, the calculated cost for coverage shall not include any  
16 schedule rating modifications, debits, or credits. For policies with provisions  
17 for deductibles with effective dates on or after January 1, 1995, assessments  
18 shall be imposed as calculated by the deductible program adjustment. The cost  
19 for coverage calculated under this paragraph by insurance companies that  
20 issue only deductible insurance policies in Kentucky shall be actuarially  
21 adequate to cover the entire liability of the employer for compensation under  
22 this chapter, including all expenses and allowances normally used to calculate  
23 the cost for coverage. For policies with provisions for deductibles with  
24 effective dates of May 6, 1993, through December 31, 1993, for which the  
25 insurance company did not report premiums and remit special fund  
26 assessments based on the calculated cost for coverage prior to the reduction  
27 for deductibles, "premium" includes the initial consideration plus any

1 reimbursements invoiced for losses, expenses, or fees charged under the  
2 deductibles.

3 (d) "Return premiums" for insurance companies means amounts returned to  
4 insureds due to endorsements, retrospective adjustments, cancellations,  
5 dividends, or errors.

6 (e) "Deductible program adjustment" means calculating premium and premiums  
7 received on a gross basis without regard to the following:

8 1. Schedule rating modifications, debits, or credits;

9 2. Deductible credits; or

10 3. Modifications to the cost of coverage from inception through and  
11 including any audit that are based on negotiated retrospective rating  
12 arrangements, including but not limited to large risk alternative rating  
13 options;

14 (26) "Insurance policy" for an insurance company or self-insured group means the term  
15 of insurance coverage commencing from the date coverage is extended, whether a  
16 new policy or a renewal, through its expiration, not to exceed the anniversary date  
17 of the renewal for the following year;

18 (27) "Self-insurance year" for a self-insured group means the annual period of  
19 certification of the group created pursuant to KRS 342.350(4) and 304.50-010;

20 (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1)  
21 shall be the projected value of the employer's workers' compensation claims for the  
22 next calendar year as calculated by the commissioner using generally-accepted  
23 actuarial methods as follows:

24 (a) The base period shall be the earliest three (3) calendar years of the five (5)  
25 calendar years immediately preceding the calendar year for which the  
26 calculation is made. The commissioner shall identify each claim of the  
27 employer which has an injury date or date of last injurious exposure to the

1 cause of an occupational disease during each one (1) of the three (3) calendar  
2 years to be used as the base, and shall assign a value to each claim. The value  
3 shall be the total of the indemnity benefits paid to date and projected to be  
4 paid, adjusted to current benefit levels, plus the medical benefits paid to date  
5 and projected to be paid for the life of the claim, plus the cost of medical and  
6 vocational rehabilitation paid to date and projected to be paid. Adjustment to  
7 current benefit levels shall be done by multiplying the weekly indemnity  
8 benefit for each claim by the number obtained by dividing the statewide  
9 average weekly wage which will be in effect for the year for which the  
10 premium is being calculated by the statewide average weekly wage in effect  
11 during the year in which the injury or date of the last exposure occurred. The  
12 total value of the claims using the adjusted weekly benefit shall then be  
13 calculated by the commissioner. Values for claims in which awards have been  
14 made or settlements reached because of findings of permanent partial or  
15 permanent total disability shall be calculated using the mortality and interest  
16 discount assumptions used in the latest available statistical plan of the  
17 advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The  
18 sum of all calculated values shall be computed for all claims in the base  
19 period;

- 20 (b) The commissioner shall obtain the annual payroll for each of the three (3)  
21 years in the base period for each employer carrying his own risk from records  
22 of the department and from the records of the Department of Workforce  
23 Development, Education and Labor Cabinet. The commissioner shall multiply  
24 each of the three (3) years of payroll by the number obtained by dividing the  
25 statewide average weekly wage which will be in effect for the year in which  
26 the premium is being calculated by the statewide average weekly wage in  
27 effect in each of the years of the base period;

- 1           (c) The commissioner shall divide the total of the adjusted claim values for the  
2           three (3) year base period by the total adjusted payroll for the same three (3)  
3           year period. The value so calculated shall be multiplied by 1.25 and shall then  
4           be multiplied by the employer's most recent annualized payroll, calculated  
5           using records of the department and the Department of Workforce  
6           Development data which shall be made available for this purpose on a  
7           quarterly basis as reported, to obtain the premium for the next calendar year  
8           for assessment purposes under KRS 342.122;
- 9           (d) For November 1, 1987, through December 31, 1988, premium for each  
10          employer carrying its own risk shall be an amount calculated by the board  
11          pursuant to the provisions contained in this subsection and such premium  
12          shall be provided to each employer carrying its own risk and to the funding  
13          commission on or before January 1, 1988. Thereafter, the calculations set  
14          forth in this subsection shall be performed annually, at the time each employer  
15          applies or renews its application for certification to carry its own risk for the  
16          next twelve (12) month period and submits payroll and other data in support  
17          of the application. The employer and the funding commission shall be notified  
18          at the time of the certification or recertification of the premium calculated by  
19          the commissioner, which shall form the employer's basis for assessments  
20          pursuant to KRS 342.122 for the calendar year beginning on January 1  
21          following the date of certification or recertification;
- 22          (e) If an employer having fewer than five (5) years of doing business in this state  
23          applies to carry its own risk and is so certified, its premium for the purposes  
24          of KRS 342.122 shall be based on the lesser number of years of experience as  
25          may be available including the two (2) most recent years if necessary to create  
26          a three (3) year base period. If the employer has less than two (2) years of  
27          operation in this state available for the premium calculation, then its premium

1 shall be the greater of the value obtained by the calculation called for in this  
2 subsection or the amount of security required by the commissioner pursuant to  
3 KRS 342.340(1);

4 (f) If an employer is certified to carry its own risk after having previously insured  
5 the risk, its premium shall be calculated using values obtained from claims  
6 incurred while insured for as many of the years of the base period as may be  
7 necessary to create a full three (3) year base. After the employer is certified to  
8 carry its own risk and has paid all amounts due for assessments upon  
9 premiums paid while insured, the employer shall be assessed only upon the  
10 premium calculated under this subsection;

11 (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated  
12 as set forth in this subsection; and

13 (h) Notwithstanding any other provision of this subsection, the premium of any  
14 employer authorized to carry its own risk for purposes of assessments due  
15 under this chapter shall be no less than thirty cents (\$0.30) per one hundred  
16 dollars (\$100) of the employer's most recent annualized payroll for employees  
17 covered by this chapter;

18 (29) "SIC code" as used in this chapter means the Standard Industrial Classification  
19 Code contained in the latest edition of the Standard Industrial Classification Manual  
20 published by the Federal Office of Management and Budget;

21 (30) "Investment interest" means any pecuniary or beneficial interest in a provider of  
22 medical services or treatment under this chapter, other than a provider in which that  
23 pecuniary or investment interest is obtained on terms equally available to the public  
24 through trading on a registered national securities exchange, such as the New York  
25 Stock Exchange or the American Stock Exchange, or on the National Association  
26 of Securities Dealers Automated Quotation System;

27 (31) "Managed health care system" means a health care system that employs gatekeeper

1 providers, performs utilization review, and does medical bill audits;

2 (32) "Physician" means physicians and surgeons, audiologists holding a doctorate in  
3 audiology, psychologists, optometrists, dentists, podiatrists, and osteopathic and  
4 chiropractic practitioners acting within the scope of the license or other credentials  
5 required by his or her specialty of practice in the United States jurisdiction in which  
6 he or she is authorized to practice;

7 (33) "Objective medical findings" means information gained through direct observation  
8 and testing of the patient applying objective or standardized methods;

9 (34) "Work" means providing services to another in return for remuneration on a regular  
10 and sustained basis in a competitive economy;

11 (35) "Permanent impairment rating" means percentage of whole body impairment  
12 caused by the injury or occupational disease as determined by the "Guides to the  
13 Evaluation of Permanent Impairment";

14 (36) "Permanent disability rating" means the permanent impairment rating selected by  
15 an administrative law judge times the factor set forth in the table that appears at  
16 KRS 342.730(1)(b); and

17 (37) "Guides to the Evaluation of Permanent Impairment" means, except as provided in  
18 KRS 342.262:

19 (a) The fifth edition published by the American Medical Association; and

20 (b) For psychological impairments, Chapter 12 of the second edition published by  
21 the American Medical Association.

22 ➔Section 3. KRS 342.120 is amended to read as follows:

23 (1) There is created the Division of Workers' Compensation Funds in the Department  
24 of Workers' Claims ~~that~~<sup>which</sup> shall be responsible for the administration of the  
25 special fund and the coal workers' pneumoconiosis fund and the maintenance of  
26 records regarding the payment of claims by these funds. The Division of Workers'  
27 Compensation Funds shall have no responsibility for the coal workers'

1 pneumoconiosis fund once the assets and liabilities have been transferred to the  
2 Kentucky Employers' Mutual Insurance Authority, which will administer the fund  
3 pursuant to KRS 342.1243. The Division of Workers' Compensation Funds shall be  
4 headed by a director appointed by the commissioner~~secretary of the Education and~~  
5 ~~Labor Cabinet~~, with the prior written approval of the Governor pursuant to KRS  
6 12.050. The director shall be responsible for overseeing the administration of the  
7 funds and the maintenance of records regarding the payment of claims by the funds.

8 (2) The special fund shall have no liability upon any claim in which the injury  
9 occurred, or for cumulative trauma, the disability became manifest, or, for  
10 occupational disease, if the date of injury or last exposure occurred, after December  
11 12, 1996.

12 (3) Where the employer has settled its liability for income benefits and thereafter a  
13 determination has been made of the special fund's liability, the special fund portion  
14 of the benefit rate shall be paid over the maximum period provided for by statute  
15 for that disability, with the period of payment beginning on the date settlement was  
16 approved by an administrative law judge. This provision is remedial and shall apply  
17 to all pending and future claims.

18 ➔Section 4. KRS 342.122 is amended to read as follows:

19 (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose  
20 of funding and prefunding the liabilities of the special fund, financing the  
21 administration and operation of the Kentucky Workers' Compensation  
22 Funding Commission, and financing the expenditures for all programs in the  
23 Department of Workers' Claims, Occupational Safety and Health Review  
24 Commission, Workers' Compensation Nominating Committee, Department of  
25 Workplace Standards, except expenditures for the Division of Wages and  
26 Hours contained in the Department of Workplace Standards and the  
27 proportional support for general administration and support based on an

1 approved indirect cost allocation plan within the Department of Workers'  
2 Claims and the Education and Labor Cabinet, as reflected in the enacted  
3 budget of the Commonwealth and enacted by the General Assembly, the  
4 funding commission shall impose a special fund assessment rate of nine  
5 percent (9%) upon the amount of workers' compensation premiums received  
6 on and after January 1, 1997, through December 31, 1997, by every insurance  
7 carrier writing workers' compensation insurance in the Commonwealth, by  
8 every self-insured group operating under the provisions of KRS 342.350(4)  
9 and Chapter 304, and against the premium, as defined in KRS 342.0011, of  
10 every employer carrying his or her own risk.

- 11 (b) 1. The funding commission shall, for calendar year 1998 and thereafter,  
12 establish for the special fund an assessment rate to be assessed against  
13 all premium received during that calendar year which shall produce  
14 enough revenue to amortize on a level basis the unfunded liability of the  
15 special fund as of June 30 preceding January 1 of each year, for the  
16 period remaining until December 31, 2029. The special fund  
17 assessment imposed by the funding commission shall continue to be  
18 assessed to finance the administration and operation of the Kentucky  
19 Workers' Compensation Funding Commission under subsection (1)(a)  
20 of this section, and financing the expenditures for all programs in the  
21 Department of Workers' Claims, Occupational Safety and Health  
22 Review Commission, Department of Workplace Standards, excluding  
23 expenditures for the Division of Wages and Hours contained in the  
24 Department of Workplace Standards and the proportional support for  
25 general administration and support based on an approved indirect cost  
26 allocation plan within the Department of Workers' Claims and the  
27 Education and Labor Cabinet.

1           2. For the purpose of establishing the assessment rate after the liabilities  
2           of the special fund have been funded or prefunded, the Workers'  
3           Compensation Funding Commission, the Department of Workers'  
4           Claims, the Occupational Safety and Health Review Commission, the  
5           Department of Workplace Standards, excluding the Division of Wages  
6           and Hours contained within the Department of Workplace Standards,  
7           and the Education and Labor Cabinet, shall each submit a budget to  
8           the commissioner for approval. The commissioner shall submit a  
9           combined budget request for use of the special fund assessment,  
10           subject to the approval of the Workers' Compensation Funding  
11           Commission, to the chairs of the House Standing Committee on  
12           Appropriations and Revenue and the Senate Standing Committee on  
13           Appropriations and Revenue. The combined budgets of the  
14           Occupational Safety and Health Review Commission, Department of  
15           Workplace Standards, and the proportional support for the general  
16           administration and approved indirect cost allocation to the Education  
17           and Labor Cabinet, shall not exceed fifty percent (50%) of the total  
18           combined budget submitted by the commissioner.

19           3. The interest rate to be used in this calculation shall reflect the funding  
20           commission's investment experience to date and the current investment  
21           policies of the commission. This assessment shall be imposed upon the  
22           amount of workers' compensation premiums received by every  
23           insurance carrier writing workers' compensation insurance in the  
24           Commonwealth, by every self-insured group operating under the  
25           provisions of KRS 342.350(4) and Chapter 304, and against the  
26           premium, as defined in KRS 342.0011, of every employer carrying its  
27           own risk. On or before October 1 of each year, the commission shall

1 notify each insurance carrier writing workers' compensation insurance in  
2 the Commonwealth, every group of self-insured employers, and each  
3 employer carrying its own risk, of the rates which shall become effective  
4 on January 1 of each year, unless modified by the General Assembly.

5 (c) All assessments imposed by this section shall be paid to the Kentucky  
6 Workers' Compensation Funding Commission and shall be credited to the  
7 benefit reserve fund within the Kentucky Workers' Compensation Funding  
8 Commission.

9 (d) The assessments imposed in this chapter shall be in lieu of all other  
10 assessments or taxes on workers' compensation premiums.

11 (2) (a) These assessments shall be paid quarterly not later than the thirtieth day of the  
12 month following the end of the quarter in which the premium is received.  
13 Receipt shall be considered timely through actual physical receipt or by  
14 postmark of the United States Postal Service. Employers carrying their own  
15 risk and employers defined in KRS 342.630(2) shall pay the annual  
16 assessments in four (4) equal quarterly installments.

17 (b) Beginning on January 1, 2020, all assessments shall be electronically remitted  
18 to the funding commission quarterly not later than the thirtieth day of the  
19 month following the end of the quarter in which the premium is received.  
20 Receipt shall be considered timely when filed and remitted using the  
21 appropriate electronic pay system as prescribed by the funding commission.  
22 Employers carrying their own risk and employers defined in KRS 342.630(2)  
23 shall pay the annual assessments in four (4) equal quarterly installments.

24 (3) The assessments imposed by this section may be collected by the insurance carrier  
25 from the insured. However, the insurance carrier shall not collect from the employer  
26 any amount exceeding the assessments imposed pursuant to this section. If the  
27 insurance carrier collects the assessment from an insured, the assessment shall be

1 collected at the same time and in the same proportion as the premium is collected.  
2 The assessment for an insurance policy or other evidence of coverage providing a  
3 deductible may be collected in accordance with this chapter on a premium amount  
4 that equates to the premium that would have applied without the deductible. Each  
5 statement from an insurance carrier presented to an insured reflecting premium and  
6 assessment amounts shall clearly identify and distinguish the amount to be paid for  
7 premium and the amount to be paid for assessments. No insurance carrier shall  
8 collect from an insured an amount in excess of the assessment percentages imposed  
9 by this chapter. The assessment for an insurance policy or other evidence of  
10 coverage providing a deductible may be collected in accordance with this chapter  
11 on a premium amount that equates to the premium that would have applied without  
12 the deductible. The percentages imposed by this chapter for an insurance policy  
13 issued by an insurance company shall be those percentages in effect on the annual  
14 effective date of the policy, regardless of the date that the premium is actually  
15 received by the insurance company.

16 (4) A self-insured group may elect to report its premiums and to have its assessments  
17 computed in the same manner as insurance companies. This election may not be  
18 rescinded for at least ten (10) years, nor may this election be made a second time  
19 for at least another ten (10) years, except that the board of directors of the funding  
20 commission may, at its discretion, waive the ten (10) year ban on a case-by-case  
21 basis after formal petition has been made to the funding commission by a self-  
22 insured group.

23 (5) The funding commission, as part of the collection and auditing of the special fund  
24 assessments required by this section, shall annually require each insurance carrier  
25 and each self-insured group to provide a list of employers which it has insured or  
26 which are members and the amount collected from each employer. Additionally, the  
27 funding commission shall require each entity paying a special fund assessment to

1 report the SIC code for each employer and the amount of premium collected from  
2 each SIC code. An insurance carrier or self-insured group may require its insureds  
3 or members to furnish the SIC code for each of their employees. However, the  
4 failure of any employer to furnish said codes shall not relieve the insurance carrier  
5 or self-insured group from the obligation to furnish same to the funding  
6 commission. The Department of Workforce Development, Education and Labor  
7 Cabinet, is hereby directed to make available the SIC codes assigned in its records  
8 to specific employers to aid in the reporting and recording of the special fund  
9 assessment data.

10 (6) Each self-insured employer, self-insured group, or insurance carrier shall provide  
11 any information and submit any reports the Department of Revenue or the funding  
12 commission may require to effectuate the provisions of this section. In addition, the  
13 funding commission may enter reciprocal agreements with other governmental  
14 agencies for the exchange of information necessary to effectuate the provisions of  
15 this section.

16 (7) The special fund shall be required to maintain a central claim registry of all claims  
17 to which it is named a party, giving each such claim a unique claim number and  
18 thereafter recording the status of each claim on a current basis. The registry shall be  
19 established by January 26, 1988, for all claims on which payments were made since  
20 July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all  
21 claim files in the possession of the special fund.

22 (8) The fund heretofore designated as the subsequent claim fund is abolished, and there  
23 is substituted therefor the special fund as set out by this section, and all moneys and  
24 properties owned by the subsequent claim fund are transferred to the special fund.

25 (9) Notwithstanding any other provisions of this section or this chapter to the contrary,  
26 the total amount of funds collected pursuant to the assessment rates adopted by the  
27 funding commission shall not be limited to the provisions of this section.

1 (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS  
2 342.122 shall forever remain applicable to premiums received on policies with  
3 effective dates prior to January 1, 1997, by every insurance carrier writing workers'  
4 compensation insurance in the Commonwealth, by every self-insured group  
5 operating under the provision of KRS 342.350(4) and Chapter 304, and against the  
6 premium, as defined in KRS 342.0011, of every employer carrying its own risk.

7 ➔Section 5. KRS 342.215 is amended to read as follows:

8 (1) The Workers' Compensation Board is hereby created and established. The board  
9 shall rule on appeals of decisions rendered by administrative law judges under this  
10 chapter. The board shall rule on an appeal of a decision of an administrative law  
11 judge no later than sixty (60) days following the date on which the last appeal brief  
12 was filed.

13 (2) The Workers' Compensation Board shall consist of three (3) members appointed by  
14 the Governor. Each member shall hold no other public office and shall devote his or  
15 her full time to the duties of his or her office. Each member shall be exempt from  
16 the classified service, and his or her support staff may be exempt from the classified  
17 service.

18 (3) Of the members of the board appointed under this section, any member appointed to  
19 fill an unexpired term shall immediately assume the office subject to the  
20 confirmation by the Senate in accordance with KRS 11.160 for the remainder of the  
21 term. Any member not currently pending reappointment by the Senate with a term  
22 expiring on or before:

23 (a) December 1, 2025, shall continue serving a term that shall expire on June 1,  
24 2026;

25 (b) December 1, 2026, shall continue serving a term that shall expire on June 1,  
26 2027; or

27 (c) December 1, 2027, shall continue serving a term that shall expire on June 1,

1           2028.

2           Thereafter, each term of a board member shall run for four (4) years from the date  
3           of expiration of the term for which the member's predecessor was appointed, except  
4           that a person appointed to fill a vacancy prior to the expiration of a term shall be  
5           appointed for the remainder of the term. The Governor shall not appoint a member  
6           of the board to fill the unexpired term of another board member, nor shall the  
7           Governor reappoint a member of the board who has been removed from his or her  
8           position prior to the expiration of his or her term. The members of the board shall  
9           have the qualifications required of appeals court judges, except for residence in a  
10          district, and shall receive the same salary and shall be subject to the same standards  
11          of conduct. The Governor shall designate a member of the board to serve as  
12          chairman. Any vacancy in the chairmanship shall be filled by the Governor. The  
13          Governor may at any time remove any member for cause after furnishing the  
14          member with a written copy of the charges against him or her and giving the  
15          member a public hearing if he or she requests it.

16          (4) A decision concurred in by any two (2) of the three (3) members shall constitute a  
17          decision of the board.

18          (5) Members of the Workers' Compensation Board and the administrative law judges  
19          shall be members of the Kentucky Employees Retirement System.

20          (6) The Workers' Compensation Board shall be attached to the Department of Workers'  
21          Claims~~[in the Education and Labor Cabinet]~~.

22          ➔Section 6. KRS 342.228 is amended to read as follows:

23          (1) The Department of Workers' Claims shall be responsible for administering claims  
24          and ensuring compliance with the insurance, self-insurance, and rehabilitation  
25          provisions in this chapter. The department shall be administered by a commissioner  
26          appointed by the Governor. The commissioner appointed by the Governor shall be  
27          subject to the consent of the Senate in accordance with KRS 11.160.

1 (2) The commissioner shall have demonstrated knowledge and experience in the areas  
 2 of public administration, administrative law, and workers' compensation by  
 3 having a minimum of eight (8) years of legal practice experience in the area of  
 4 workers' compensation~~[area of workers' compensation, public administration, and~~  
 5 ~~administrative law]~~.

6 ➔Section 7. KRS 342.230 is amended to read as follows:

7 (1) The commissioner shall establish and fill any positions, including medical  
 8 services and advice, necessary to carry on the department's work subject to the  
 9 limits of appropriations for the department and except as otherwise required by  
 10 law. All employees of the department shall be classified employees under KRS  
 11 Chapter 18A, except for the commissioner, the administrative law judges, and  
 12 board members. The commissioner shall have immediate supervision of the  
 13 employees of the department, perform duties assigned to him or her, and have  
 14 complete authority to carry out all the administrative functions relating to the  
 15 department.

16 (2) The commissioner with the assistance of the board shall train and instruct the  
 17 administrative law judges on an ongoing basis; assign cases; and monitor the  
 18 caseloads of the administrative law judges and the Workers' Compensation Board to  
 19 ensure timely disposition of cases; keep and be the custodian of the records of the  
 20 board and the administrative law judges; annually report the activities of the board  
 21 and the administrative law judges to the Governor; and devote his or her full time to  
 22 the duties of his or her office. The commissioner shall be paid a salary not less than  
 23 the salary of a member of the board.

24 ~~(3)~~~~(2)~~ The Governor shall appoint, with the consent of the Senate in accordance with  
 25 KRS 11.160 for a term of four (4) years, not more than nineteen (19) administrative  
 26 law judges, each of whom shall be an attorney and shall have five (5) years'  
 27 experience in the Commonwealth in the practice of workers' compensation law or a

1 related field, and extensive knowledge of workers' compensation law, and shall be  
2 paid the same salary as a Circuit Judge. Each newly appointed administrative law  
3 judge shall not assume his or her office until June 1 following confirmation by the  
4 Senate. Administrative law judges who are reappointed shall continue to serve in  
5 their capacity until the reappointment is confirmed by the Senate or the Senate  
6 adjourns without confirming the appointment. Each administrative law judge shall  
7 be exempt from the classified service, and his or her support staff may be exempt  
8 from the classified service. Each administrative law judge may be employed for  
9 additional terms with the consent of the Senate in accordance with KRS 11.160.  
10 The Governor, at least thirty (30) days prior to the expiration of a term of an  
11 administrative law judge, shall provide the name of the individual whom he or she  
12 intends to appoint to the position to the chairman of the Senate Standing Committee  
13 on Economic Development, Tourism, and Labor. These administrative law judges  
14 shall conduct hearings, and otherwise supervise the presentation of evidence and  
15 perform any other duties assigned to them by statute and shall render final  
16 decisions, orders, or awards. Administrative law judges may, in receiving evidence,  
17 make rulings affecting the competency, relevancy, and materiality of the evidence  
18 about to be presented and upon motions presented during the taking of evidence as  
19 will expedite the preparation of the case.

20 ~~(4)~~<sup>(3)</sup> To ensure that the administrative law judges perform their responsibilities  
21 competently and issue decisions consistent with this chapter, the commissioner  
22 shall, at least twice annually, conduct training and education seminars in workers'  
23 compensation law; administrative law; and methods and procedures for writing  
24 well-reasoned, clear, correct, and concise opinions, orders, or awards.

25 ~~(5)~~<sup>(4)</sup> The Governor may at any time remove the commissioner or any member of  
26 the board. The commissioner may remove any administrative law judge. A member  
27 of the board or an administrative law judge may be removed for good cause,

1 including violation of the code of judicial ethics or the code of ethics applicable to  
2 the executive branch of the Commonwealth. In addition, an administrative law  
3 judge or a member of the board may be removed for the persistent or repeated  
4 failure to perform satisfactorily the specific duties assigned in this chapter,  
5 including the requirement of timely disposition of cases, review of attorney's fees,  
6 and failure to attend training and continuing education programs required by this  
7 section.

8 ~~(6)~~~~(5)~~ Any vacancy in the term of an administrative law judge, which occurs prior to  
9 the expiration of the term, shall be filled if necessary by appointment of the  
10 Governor in accordance with subsection ~~(3)~~~~(2)~~ of this section within sixty (60)  
11 days from the date the vacancy occurs, with the consent of the Senate in accordance  
12 with KRS 11.160, for the remainder of the term. An administrative law judge  
13 appointed to fill an unexpired term shall immediately assume the office subject to  
14 the confirmation by the Senate in accordance with KRS 11.160 for the remainder of  
15 the term.

16 ~~(7)~~~~(6)~~ Any administrative law judge not currently pending confirmation by the  
17 Senate with a term expiring on or before:

- 18 (a) December 1, 2025, shall continue serving a term that shall expire on June 1,  
19 2026;
- 20 (b) December 1, 2026, shall continue serving a term that shall expire on June 1,  
21 2027;
- 22 (c) December 1, 2027, shall continue serving a term that shall expire on June 1,  
23 2028; or
- 24 (d) December 1, 2028, shall continue serving a term that shall expire on June 1,  
25 2029.

26 ~~(8)~~~~(7)~~ One (1) of the administrative law judges appointed pursuant to this section  
27 shall be appointed as a chief administrative law judge, to have the same

1 qualifications, powers, duties, and requirements as those of other administrative law  
2 judges. The chief administrative law judge shall not be assigned regular dockets but  
3 shall instead assist the commissioner by doing all scheduling of the administrative  
4 law judges, handling dockets assigned to the administrative law judges in case of an  
5 emergency, providing supervision of the administrative law judges, and providing  
6 educational opportunities for the administrative law judges. The chief  
7 administrative law judge shall be paid at the same rate as the administrative law  
8 judges plus an additional three thousand dollars (\$3,000) per year. At any time the  
9 commissioner may replace the chief administrative law judge with one (1) of the  
10 other administrative law judges at which time the former chief administrative law  
11 judge shall resume the duties assigned to the other administrative law judges  
12 pursuant to this chapter. On January 1, 1998, the commissioner shall employ a  
13 person in this position for a four (4) year term.

14 ➔Section 8. KRS 342.342 is amended to read as follows:

15 (1) Notwithstanding the provisions of KRS 342.340, KRS 342.350, or any  
16 administrative regulations promulgated pursuant to those provisions, the  
17 commissioner shall annually review the adequacy of the financial or other security  
18 requirements contained in administrative regulations, promulgated pursuant to the  
19 individual self-insurance provisions in this chapter. The commissioner shall report  
20 the results of the review to the Economic Development and Workforce Investment  
21 Committee of the General Assembly and any recommendations for proposed  
22 changes to insure the financial soundness of the individual self-insurers authorized  
23 pursuant to this chapter. In addition, the commissioner shall report not less often  
24 than annually a summary report on the financial soundness of the individual self-  
25 insurers.

26 (2) The Economic Development and Workforce Investment Committee of the General  
27 Assembly shall annually review the administrative regulations promulgated

1           pursuant to the individual provisions under this chapter.

2       (3) On July 1, 1994, the Division of Security and Compliance of the Department of  
3       Workers' Claims~~[in the Education and Labor Cabinet]~~ shall be expanded by five  
4       (5) employees. These additional employees shall be employed for the purpose of  
5       conducting financial audits, examinations, and reviews and other activities  
6       necessary to ensure and monitor the financial soundness of the individual self-  
7       insured employers authorized pursuant to KRS 342.340.

8           ➔Section 9. KRS 12.020 is amended to read as follows:

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

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

- 22           (1) The Governor.  
23           (2) Lieutenant Governor.  
24           (3) Department of State.  
25               (a) Secretary of State.  
26               (b) Board of Elections.  
27               (c) Registry of Election Finance.

- 1           (4) Department of Law.
- 2                 (a) Attorney General.
- 3           (5) Department of the Treasury.
- 4                 (a) Treasurer.
- 5           (6) Department of Agriculture.
- 6                 (a) Commissioner of Agriculture.
- 7                 (b) Agricultural Development Board.
- 8                 (c) Kentucky Agricultural Finance Corporation.
- 9           (7) Auditor of Public Accounts.
- 10                (a) Commonwealth Office of the Ombudsman.
- 11 II. Program cabinets headed by appointed officers:
- 12           (1) Justice and Public Safety Cabinet:
- 13                 (a) Department of Kentucky State Police.
- 14                     1. Office of Administrative Services.
- 15                         a. Division of Operational Support.
- 16                         b. Division of Management Services.
- 17                     2. Office of Operations.
- 18                         a. Division of West Troops.
- 19                         b. Division of East Troops.
- 20                         c. Division of Special Enforcement.
- 21                         d. Division of Commercial Vehicle Enforcement.
- 22                     3. Office of Technical Services.
- 23                         a. Division of Forensic Sciences.
- 24                         b. Division of Electronic Services.
- 25                         c. Division of Records Management.
- 26                 (b) Department of Criminal Justice Training.
- 27                 (c) Department of Corrections.

- 1 (d) Department of Juvenile Justice.
- 2 (e) Office of the Secretary.
- 3 (f) Office of Drug Control Policy.
- 4 (g) Office of Legal Services.
- 5 (h) Office of the Kentucky State Medical Examiner.
- 6 (i) Parole Board.
- 7 (j) Kentucky State Corrections Commission.
- 8 (k) Office of Legislative and Intergovernmental Services.
- 9 (l) Office of Human Resource Management.
  - 10 1. Division of Human Resource Administration.
  - 11 2. Division of Employee Management.
- 12 (m) Department of Public Advocacy.
- 13 (n) Office of Communications.
  - 14 1. Information Technology Services Division.
- 15 (o) Office of Financial Management Services.
  - 16 1. Division of Financial Management.
- 17 (p) Grants Management Division.
- 18 (2) Energy and Environment Cabinet:
  - 19 (a) Office of the Secretary.
    - 20 1. Office of Legislative and Intergovernmental Affairs.
    - 21 2. Office of Legal Services.
      - 22 a. Legal Division I.
      - 23 b. Legal Division II.
    - 24 3. Office of Administrative Hearings.
    - 25 4. Office of Communication.
    - 26 5. Mine Safety Review Commission.
    - 27 6. Office of Kentucky Nature Preserves.

- 1                   7.    Kentucky Public Service Commission.
- 2                   (b)  Department for Environmental Protection.
- 3                   1.    Office of the Commissioner.
- 4                   2.    Division for Air Quality.
- 5                   3.    Division of Water.
- 6                   4.    Division of Environmental Program Support.
- 7                   5.    Division of Waste Management.
- 8                   6.    Division of Enforcement.
- 9                   7.    Division of Compliance Assistance.
- 10                  (c)  Department for Natural Resources.
- 11                  1.    Office of the Commissioner.
- 12                  2.    Division of Mine Permits.
- 13                  3.    Division of Mine Reclamation and Enforcement.
- 14                  4.    Division of Abandoned Mine Lands.
- 15                  5.    Division of Oil and Gas.
- 16                  6.    Division of Mine Safety.
- 17                  7.    Division of Forestry.
- 18                  8.    Division of Conservation.
- 19                  9.    Office of the Reclamation Guaranty Fund.
- 20                  (d)  Office of Energy Policy.
- 21                  1.    Division of Energy Assistance.
- 22                  (e)  Office of Administrative Services.
- 23                  1.    Division of Human Resources Management.
- 24                  2.    Division of Financial Management.
- 25                  3.    Division of Information Services.
- 26                  (3)  Public Protection Cabinet.
- 27                  (a)  Office of the Secretary.

- 1                   1.   Office of Communications and Public Outreach.
- 2                   2.   Office of Legal Services.
- 3                    a.   Insurance Legal Division.
- 4                    b.   Alcoholic Beverage Control Legal Division.
- 5                    c.   Housing, Buildings and Construction Legal Division.
- 6                    d.   Financial Institutions Legal Division.
- 7                    e.   Professional Licensing Legal Division.
- 8                   3.   Office of Administrative Hearings.
- 9                   4.   Office of Administrative Services.
- 10                  a.   Division of Human Resources.
- 11                  b.   Division of Fiscal Responsibility.
- 12                  (b) Office of Claims and Appeals.
- 13                   1.   Board of Tax Appeals.
- 14                   2.   Board of Claims.
- 15                   3.   Crime Victims Compensation Board.
- 16                  (c) Kentucky Boxing and Wrestling Commission.
- 17                  (d) Department of Alcoholic Beverage Control.
- 18                   1.   Division of Distilled Spirits.
- 19                   2.   Division of Malt Beverages.
- 20                   3.   Division of Enforcement.
- 21                   4.   Division of Tobacco, Nicotine, and Vapor Product Licensing.
- 22                  (e) Department of Financial Institutions.
- 23                   1.   Division of Depository Institutions.
- 24                   2.   Division of Non-Depository Institutions.
- 25                   3.   Division of Securities.
- 26                  (f) Department of Housing, Buildings and Construction.
- 27                   1.   Division of Fire Prevention.

- 1                   2.    Division of Plumbing.
- 2                   3.    Division of Heating, Ventilation, and Air Conditioning.
- 3                   4.    Division of Building Code Enforcement.
- 4                   (g)  Department of Insurance.
- 5                   1.    Division of Health and Life Insurance and Managed Care.
- 6                   2.    Division of Property and Casualty Insurance.
- 7                   3.    Division of Administrative Services.
- 8                   4.    Division of Financial Standards and Examination.
- 9                   5.    Division of Licensing.
- 10                  6.    Division of Insurance Fraud Investigation.
- 11                  7.    Division of Consumer Protection.
- 12                  (h)  Department of Professional Licensing.
- 13                  1.    Real Estate Authority.
- 14                  2.    Division of Real Property Boards.
- 15                  (4)  Transportation Cabinet:
- 16                  (a)  Department of Highways.
- 17                  1.    Office of Project Development.
- 18                  2.    Office of Project Delivery and Preservation.
- 19                  3.    Office of Highway Safety.
- 20                  4.    Highway District Offices One through Twelve.
- 21                  (b)  Department of Vehicle Regulation.
- 22                  (c)  Department of Aviation.
- 23                  (d)  Department of Rural and Municipal Aid.
- 24                  1.    Office of Local Programs.
- 25                  2.    Office of Rural and Secondary Roads.
- 26                  (e)  Office of the Secretary.
- 27                  1.    Office of Public Affairs.

- 1                   2.   Office for Civil Rights and Small Business Development.
- 2                   3.   Office of Budget and Fiscal Management.
- 3                   4.   Office of Inspector General.
- 4                   5.   Secretary's Office of Safety.
- 5                   (f)  Office of Support Services.
- 6                   (g)  Office of Transportation Delivery.
- 7                   (h)  Office of Audits.
- 8                   (i)  Office of Human Resource Management.
- 9                   (j)  Office of Information Technology.
- 10                  (k)  Office of Legal Services.
- 11                  (5)  Cabinet for Economic Development:
- 12                   (a)  Office of the Secretary.
- 13                   1.   Office of Legal Services.
- 14                   2.   Department for Business and Community Development.
- 15                   a.   Development and Retention Division – West Kentucky.
- 16                   b.   Development, Retention, and Administrative Division –
- 17                   Central and East Kentucky.
- 18                   c.   Community and Workforce Development Division.
- 19                   3.   Department for Financial Services.
- 20                   a.   Kentucky Economic Development Finance Authority.
- 21                   b.   Finance and Personnel Division.
- 22                   c.   IT and Resource Management Division.
- 23                   d.   Compliance Division.
- 24                   e.   Program Administration Division.
- 25                   f.   Bluegrass State Skills Corporation.
- 26                   g.   The GRANT Commission.
- 27                   4.   Office of Strategy and Public Affairs.

- 1 a. Marketing and Communications Division.
- 2 b. Research and Strategy Division.
- 3 5. Office of Entrepreneurship and Innovation.
- 4 a. Commission on Small Business Innovation and Advocacy.
- 5 6. Kentucky Film Office.
- 6 a. Kentucky Film Leadership Council.
- 7 (6) Cabinet for Health and Family Services:
- 8 (a) Office of the Secretary.
- 9 1. Office of Public Affairs.
- 10 2. Office of Legal Services.
- 11 3. Office of Inspector General.
- 12 4. Office of Human Resource Management.
- 13 5. Office of Finance and Budget.
- 14 6. Office of Legislative and Regulatory Affairs.
- 15 7. Office of Administrative Services.
- 16 8. Office of Application Technology Services.
- 17 9. Office of Data Analytics.
- 18 10. Office of Medical Cannabis.
- 19 a. Division of Enforcement and Compliance.
- 20 b. Division of Licensure and Access.
- 21 (b) Department for Public Health.
- 22 (c) Department for Medicaid Services.
- 23 (d) Department for Behavioral Health, Developmental and Intellectual
- 24 Disabilities.
- 25 (e) Department for Aging and Independent Living.
- 26 (f) Department for Community Based Services.
- 27 (g) Department for Family Resource Centers and Volunteer Services.

- 1           (7) Finance and Administration Cabinet:
- 2           (a) Office of the Secretary.
- 3           (b) Office of the Inspector General.
- 4           (c) Office of Legislative and Intergovernmental Affairs.
- 5           (d) Office of General Counsel.
- 6           (e) Office of the Controller.
- 7           (f) Office of Administrative Services.
- 8           (g) Office of Policy and Audit.
- 9           (h) Department for Facilities and Support Services.
- 10          (i) Department of Revenue.
- 11          (j) Commonwealth Office of Technology.
- 12          (k) State Property and Buildings Commission.
- 13          (l) Office of Equal Employment Opportunity and Contract Compliance.
- 14          (m) Kentucky Employees Retirement Systems.
- 15          (n) Commonwealth Credit Union.
- 16          (o) State Investment Commission.
- 17          (p) Kentucky Housing Corporation.
- 18          (q) Kentucky Local Correctional Facilities Construction Authority.
- 19          (r) Kentucky Turnpike Authority.
- 20          (s) Historic Properties Advisory Commission.
- 21          (t) Kentucky Higher Education Assistance Authority.
- 22          (u) Kentucky River Authority.
- 23          (v) Kentucky Teachers' Retirement System Board of Trustees.
- 24          (w) Executive Branch Ethics Commission.
- 25          (x) Office of Fleet Management.
- 26          (8) Tourism, Arts and Heritage Cabinet:
- 27          (a) Kentucky Department of Tourism.

- 1                   1.    Division of Tourism Services.
- 2                   2.    Division of Marketing and Administration.
- 3                   3.    Division of Communications and Promotions.
- 4                   (b)  Kentucky Department of Parks.
- 5                   1.    Division of Information Technology.
- 6                   2.    Division of Human Resources.
- 7                   3.    Division of Financial Operations.
- 8                   4.    Division of Purchasing.
- 9                   5.    Division of Facilities.
- 10                  6.    Division of Park Operations.
- 11                  7.    Division of Sales, Marketing, and Customer Service.
- 12                  8.    Division of Engagement.
- 13                  9.    Division of Food Services.
- 14                  10.  Division of Rangers.
- 15                  (c)  Department of Fish and Wildlife Resources.
- 16                  1.    Division of Law Enforcement.
- 17                  2.    Division of Administrative Services.
- 18                  3.    Division of Engineering, Infrastructure, and Technology.
- 19                  4.    Division of Fisheries.
- 20                  5.    Division of Information and Education.
- 21                  6.    Division of Wildlife.
- 22                  7.    Division of Marketing.
- 23                  (d)  Kentucky Horse Park.
- 24                  1.    Division of Support Services.
- 25                  2.    Division of Buildings and Grounds.
- 26                  3.    Division of Operational Services.
- 27                  (e)  Kentucky State Fair Board.

- 1                   1.   Office of Administrative and Information Technology Services.
- 2                   2.   Office of Human Resources and Access Control.
- 3                   3.   Division of Expositions.
- 4                   4.   Division of Kentucky Exposition Center Operations.
- 5                   5.   Division of Kentucky International Convention Center.
- 6                   6.   Division of Public Relations and Media.
- 7                   7.   Division of Venue Services.
- 8                   8.   Division of Personnel Management and Staff Development.
- 9                   9.   Division of Sales.
- 10                  10.  Division of Security and Traffic Control.
- 11                  11.  Division of Information Technology.
- 12                  12.  Division of the Louisville Arena.
- 13                  13.  Division of Fiscal and Contract Management.
- 14                  14.  Division of Access Control.
- 15                  (f)  Office of the Secretary.
  - 16                    1.   Office of Finance.
  - 17                    2.   Office of Government Relations and Administration.
- 18                  (g)  Office of Legal Affairs.
- 19                  (h)  Office of Human Resources.
- 20                  (i)  Office of Public Affairs and Constituent Services.
- 21                  (j)  Office of Arts and Cultural Heritage.
- 22                  (k)  Kentucky African-American Heritage Commission.
- 23                  (l)  Kentucky Foundation for the Arts.
- 24                  (m)  Kentucky Humanities Council.
- 25                  (n)  Kentucky Heritage Council.
- 26                  (o)  Kentucky Arts Council.
- 27                  (p)  Kentucky Historical Society.

- 1                   1.    Division of Museums.
- 2                   2.    Division of Oral History and Educational Outreach.
- 3                   3.    Division of Research and Publications.
- 4                   4.    Division of Administration.
- 5                   (q)   Kentucky Center for the Arts.
- 6                    1.    Division of Governor's School for the Arts.
- 7                   (r)   Kentucky Artisans Center at Berea.
- 8                   (s)   Northern Kentucky Convention Center.
- 9                   (t)   Eastern Kentucky Exposition Center.
- 10                 (9)   Personnel Cabinet:
- 11                   (a)   Office of the Secretary.
- 12                   (b)   Department of Human Resources Administration.
- 13                   (c)   Office of Employee Relations.
- 14                   (d)   Kentucky Public Employees Deferred Compensation Authority.
- 15                   (e)   Office of Administrative Services.
- 16                   (f)   Office of Legal Services.
- 17                   (g)   Governmental Services Center.
- 18                   (h)   Department of Employee Insurance.
- 19                   (i)   Office of Diversity, Equality, and Training.
- 20                   (j)   Office of Public Affairs.
- 21                 (10)   Education and Labor Cabinet:
- 22                   (a)   Office of the Secretary.
- 23                    1.    Office of Legal Services.
- 24                    a.    Workplace Standards Legal Division.
- 25                    b. ~~Workers' Claims Legal Division.~~
- 26                    c. ~~Workers' Claims Legal Division.~~
- 26                    e. ~~Workers' Claims Legal Division.~~
- 27                    f.    Workforce Development Legal Division.
- 27                    2.    Office of Administrative Services.

- 1 a. Division of Human Resources Management.
- 2 b. Division of Fiscal Management.
- 3 c. Division of Operations and Support Services.
- 4 3. Office of Technology Services.
  - 5 a. Division of Information Technology Services.
  - 6 4. Office of Policy and Audit.
  - 7 5. Office of Legislative Services.
  - 8 6. Office of Communications.
  - 9 7. Office of the Kentucky Center for Statistics.
  - 10 8. Board of the Kentucky Center for Statistics.
  - 11 9. Early Childhood Advisory Council.
  - 12 10. Governors' Scholars Program.
  - 13 11. Governor's School for Entrepreneurs Program.
  - 14 12. Foundation for Adult Education.
- 15 (b) Department of Education.
  - 16 1. Kentucky Board of Education.
  - 17 2. Kentucky Technical Education Personnel Board.
  - 18 3. Education Professional Standards Board.
- 19 (c) Board of Directors for the Center for School Safety.
- 20 (d) Department for Libraries and Archives.
- 21 (e) Kentucky Environmental Education Council.
- 22 (f) Kentucky Educational Television.
- 23 (g) Kentucky Commission on the Deaf and Hard of Hearing.
- 24 (h) Department of Workforce Development.
  - 25 1. Career Development Office.
  - 26 2. Office of Vocational Rehabilitation.
    - 27 a. Division of Kentucky Business Enterprise.

- 1                    b.    Division of the Carl D. Perkins Vocational Training Center.
- 2                    c.    Division of Blind Services.
- 3                    d.    Division of Field Services.
- 4                    e.    Statewide Council for Vocational Rehabilitation.
- 5                    f.    Employment First Council.
- 6                    g.    Division of Program Policy and Support.
- 7                    3.    Office of Industry and Apprenticeship Services.
- 8                    a.    Division of Apprenticeship.
- 9                    b.    Division of Workforce Talent.
- 10                  4.    Kentucky Apprenticeship Council.
- 11                  5.    Division of Technical Assistance.
- 12                  6.    Office of Adult Education.
- 13                  7.    Office of the Kentucky Workforce Innovation Board.
- 14                  (i)   Department of Workplace Standards.
- 15                    1.    Division of Occupational Safety and Health Compliance.
- 16                    2.    Division of Occupational Safety and Health Education and
- 17                           Training.
- 18                    3.    Division of Wages and Hours.
- 19                  (j)   Office of Unemployment Insurance.
- 20                  (k)   Kentucky Unemployment Insurance Commission.
- 21                  (l) ~~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 Specialist and Medical Services.~~
- 27                    6. ~~Workers' Compensation Board.~~

- 1           ~~(m)~~ Workers' Compensation Funding Commission.
- 2           ~~(m)~~~~(n)~~ Kentucky Occupational Safety and Health Standards Board.
- 3           ~~(n)~~~~(o)~~ State Labor Relations Board.
- 4           ~~(o)~~~~(p)~~ Employers' Mutual Insurance Authority.
- 5           ~~(p)~~~~(q)~~ Kentucky Occupational Safety and Health Review Commission.
- 6           ~~(q)~~~~(r)~~ Workers' Compensation Nominating Committee.
- 7           ~~(r)~~~~(s)~~ Office of Educational Programs.
- 8           ~~(s)~~~~(t)~~ Kentucky Workforce Innovation Board.
- 9           ~~(t)~~~~(u)~~ Kentucky Commission on Proprietary Education.
- 10          ~~(u)~~~~(v)~~ Kentucky Work Ready Skills Advisory Committee.
- 11          ~~(v)~~~~(w)~~ Kentucky Geographic Education Board.
- 12          ~~(w)~~~~(x)~~ Department for Disability Determination Services.
- 13                 1. Division of Operations.
- 14                 2. Division of Support Services.
- 15                 3. Division of Specialized Cases.
- 16                 4. Division of Case Processing.
- 17    III. Other departments headed by appointed officers:
- 18    (1) Council on Postsecondary Education.
- 19    (2) Department of Military Affairs.
- 20    (3) Department for Local Government.
- 21    (4) Kentucky Commission on Human Rights.
- 22    (5) Kentucky Commission on Women.
- 23    (6) Department of Veterans' Affairs.
- 24    (7) Kentucky Commission on Military Affairs.
- 25    (8) Office of Minority Empowerment.
- 26    (9) Governor's Council on Wellness and Physical Activity.
- 27    (10) Kentucky Communications Network Authority.

- 1 **(11) Department of Workers' Claims.**  
 2 **(a) Office of the Commissioner.**  
 3 **(b) Office of General Counsel.**  
 4 **(c) Office of Administrative Law Judges.**  
 5 **(d) Division of Claims Processing.**  
 6 **(e) Division of Security and Compliance.**  
 7 **(f) Division of Workers' Compensation Funds.**  
 8 **(g) Division of Specialist and Medical Services.**

9 ➔Section 10. KRS 12.023 is amended to read as follows:

10 The following organizational units and administrative bodies shall be attached to the  
 11 Office of the Governor:

- 12 (1) Council on Postsecondary Education;  
 13 (2) Department of Military Affairs;  
 14 (3) Department for Local Government;  
 15 (4) Kentucky Commission on Human Rights;  
 16 (5) Kentucky Commission on Women;  
 17 (6) Kentucky Commission on Military Affairs;  
 18 (7) Office of Minority Empowerment;  
 19 (a) The Martin Luther King Commission;  
 20 (8) Office of Homeland Security;~~and~~  
 21 (9) Kentucky Communications Network Authority; **and**

- 22 **(10) Department of Workers' Claims;**  
 23 **(a) Office of the Commissioner.**  
 24 **(b) Office of General Counsel.**  
 25 **(c) Office of Administrative Law Judges.**  
 26 **(d) Division of Claims Processing.**  
 27 **(e) Division of Security and Compliance.**

1        (f) Division of Workers' Compensation Funds.

2        (g) Division of Specialist and Medical Services.

3        ➔Section 11. KRS 13A.3441 is amended to read as follows:

4        (1) The General Assembly finds that a proposed amendment of 803 KAR 25:190,  
5        relating to utilization review and medical bill audits, filed with the Commission on  
6        February 18, 2021, by the ~~Labor Cabinet,~~ Department of Workers' Claims, was  
7        found deficient on or after March 30, 2021, and before January 4, 2022, but  
8        determined to become effective notwithstanding the finding of deficiency pursuant  
9        to KRS 13A.330, as evidenced by records of the Legislative Research Commission.

10       (2) Contrary provisions of any section of the Kentucky Revised Statutes  
11       notwithstanding:

12       (a) If the proposed amendment of 803 KAR 25:190 referenced in subsection (1)  
13       of this section has not been adopted on or before April 14, 2022, the proposed  
14       amendment shall expire as of April 14, 2022; or

15       (b) If the proposed amendment of 803 KAR 25:190 referenced in subsection (1)  
16       of this section has been adopted on or before April 14, 2022, 803 KAR 25:190  
17       shall be null, void, and unenforceable as of April 14, 2022.

18       (3) Contrary provisions of any section of the Kentucky Revised Statutes  
19       notwithstanding, the administrative body shall be prohibited from promulgating an  
20       administrative regulation that is identical to, or substantially the same as, the  
21       proposed amendment of 803 KAR 25:190 referenced in subsection (1) of this  
22       section for a period beginning on January 4, 2022, and concluding on June 1, 2023.

23       (4) The proposed amendment referenced in subsection (1) of this section shall be  
24       available to the public, in the office of the Legislative Research Commission's  
25       regulations compiler.

26       ➔Section 12. KRS 13B.020 is amended to read as follows:

27       (1) The provisions of this chapter shall apply to all administrative hearings conducted

1 by an agency, with the exception of those specifically exempted under this section.  
2 The provisions of this chapter shall supersede any other provisions of the Kentucky  
3 Revised Statutes and administrative regulations, unless exempted under this section,  
4 to the extent these other provisions are duplicative or in conflict. This chapter  
5 creates only procedural rights and shall not be construed to confer upon any person  
6 a right to hearing not expressly provided by law.

- 7 (2) The provisions of this chapter shall not apply to:
- 8 (a) Investigations, hearings to determine probable cause, or any other type of  
9 information gathering or fact finding activities;
  - 10 (b) Public hearings required in KRS Chapter 13A for the promulgation of  
11 administrative regulations;
  - 12 (c) Any other public hearing conducted by an administrative agency which is  
13 nonadjudicatory in nature and the primary purpose of which is to seek public  
14 input on public policy making;
  - 15 (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter  
16 35;
  - 17 (e) Administrative hearings conducted by the legislative and judicial branches of  
18 state government;
  - 19 (f) Administrative hearings conducted by any city, county, urban-county, charter  
20 county, or special district contained in KRS Chapters 65 to 109, or any other  
21 unit of local government operating strictly in a local jurisdictional capacity;
  - 22 (g) Informal hearings which are part of a multilevel hearing process that affords  
23 an administrative hearing at some point in the hearing process if the  
24 procedures for informal hearings are approved and promulgated in accordance  
25 with subsections (4) and (5) of this section;
  - 26 (h) Limited exemptions granted for specific hearing provisions and denoted by  
27 reference in the text of the applicable statutes or administrative regulations;

- 1 (i) Administrative hearings exempted pursuant to subsection (3) of this section;
- 2 (j) Administrative hearings exempted, in whole or in part, pursuant to
- 3 subsections (4) and (5) of this section; and
- 4 (k) Any administrative hearing which was commenced but not completed prior to
- 5 July 15, 1996.
- 6 (3) The following administrative hearings are exempt from application of this chapter
- 7 in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- 8 (a) Finance and Administration Cabinet
- 9 1. Higher Education Assistance Authority
- 10 a. Wage garnishment hearings conducted under authority of 20
- 11 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
- 12 b. Offset hearings conducted under authority of 31 U.S.C. sec.
- 13 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
- 14 2. Department of Revenue
- 15 a. Any licensing and bond revocation hearings conducted under the
- 16 authority of KRS 138.210 to 138.448 and 234.310 to 234.440
- 17 b. Any license revocation hearings under KRS 131.630 and 138.130
- 18 to 138.205
- 19 (b) Cabinet for Health and Family Services
- 20 1. Office of the Inspector General
- 21 a. Certificate-of-need hearings and licensure conducted under
- 22 authority of KRS Chapter 216B
- 23 b. Licensure revocation hearings conducted under authority of KRS
- 24 Chapter 216B
- 25 2. Department for Community Based Services
- 26 a. Supervised placement revocation hearings conducted under
- 27 authority of KRS Chapter 630

- 1           3. Department for Medicaid Services
- 2           a. Administrative appeal hearings following an external independent
- 3           third-party review of a Medicaid managed care organization's final
- 4           decision that denies, in whole or in part, a health care service to an
- 5           enrollee or a claim for reimbursement to the provider for a health
- 6           care service rendered by the provider to an enrollee of the
- 7           Medicaid managed care organization, conducted under authority of
- 8           KRS 205.646
- 9       (c) Justice and Public Safety Cabinet
- 10          1. Department of Kentucky State Police
- 11          a. Kentucky State Police Trial Board disciplinary hearings conducted
- 12          under authority of KRS Chapter 16
- 13          2. Department of Corrections
- 14          a. Parole Board hearings conducted under authority of KRS Chapter
- 15          439
- 16          b. Prison adjustment committee hearings conducted under authority
- 17          of KRS Chapter 197
- 18          c. Prison grievance committee hearings conducted under authority of
- 19          KRS Chapters 196 and 197
- 20          3. Department of Juvenile Justice
- 21          a. Supervised placement revocation hearings conducted under KRS
- 22          Chapter 635
- 23       (d) Energy and Environment Cabinet
- 24          1. Department for Natural Resources
- 25          a. Surface mining hearings conducted under authority of KRS
- 26          Chapter 350
- 27          b. Oil and gas hearings conducted under the authority of KRS

- 1 Chapter 353, except for those conducted by the Kentucky Oil and  
 2 Gas Conservation Commission pursuant to KRS 353.500 to  
 3 353.720
- 4 c. Explosives and blasting hearings conducted under the authority of  
 5 KRS 351.315 to 351.375
- 6 2. Department for Environmental Protection
- 7 a. Wild River hearings conducted under authority of KRS Chapter  
 8 146
- 9 b. Water resources hearings conducted under authority of KRS  
 10 Chapter 151
- 11 c. Water plant operator and water well driller hearings conducted  
 12 under authority of KRS Chapter 223
- 13 d. Environmental protection hearings conducted under authority of  
 14 KRS Chapter 224
- 15 e. Petroleum Storage Tank Environmental Assurance Fund hearings  
 16 under authority of KRS Chapter 224
- 17 3. Public Service Commission
- 18 a. Utility hearings conducted under authority of KRS Chapters 74,  
 19 278, and 279
- 20 (e) Education and Labor Cabinet
- 21 1. ~~Department of Workers' Claims~~
- 22 a. ~~Workers' compensation hearings conducted under authority of~~  
 23 ~~KRS Chapter 342~~
- 24 2. ~~Kentucky Occupational Safety and Health Review Commission~~
- 25 a. Occupational safety and health hearings conducted under authority  
 26 of KRS Chapter 338
- 27 2. ~~3.~~ Unemployment insurance hearings conducted under authority of KRS

1 Chapter 341

2 ~~3.[4.]~~ Disability determination hearings conducted under authority of 20  
3 C.F.R. pt. 404

4 (f) Public Protection Cabinet

5 1. Board of Claims

6 a. Liability hearings conducted under authority of KRS 49.020(5)  
7 and 49.040 to 49.180

8 (g) State universities and colleges

9 1. Student suspension and expulsion hearings conducted under authority of  
10 KRS Chapter 164

11 2. University presidents and faculty removal hearings conducted under  
12 authority of KRS Chapter 164

13 3. Campus residency hearings conducted under authority of KRS Chapter  
14 164

15 4. Family Education Rights to Privacy Act hearings conducted under  
16 authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99

17 5. Federal Health Care Quality Improvement Act of 1986 hearings  
18 conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS  
19 Chapter 311

20 **(h) Department of Workers' Claims**

21 **1. Workers' compensation hearings conducted under authority of KRS**  
22 **Chapter 342.**

23 (4) Any administrative hearing, or portion thereof, may be certified as exempt by the  
24 Attorney General based on the following criteria:

25 (a) The provisions of this chapter conflict with any provision of federal law or  
26 regulation with which the agency must comply, or with any federal law or  
27 regulation with which the agency must comply to permit the agency or

- 1 persons within the Commonwealth to receive federal tax benefits or federal  
2 funds or other benefits;
- 3 (b) Conformity with the requirement of this chapter from which exemption is  
4 sought would be so unreasonable or so impractical as to deny due process  
5 because of undue delay in the conduct of administrative hearings; or
- 6 (c) The hearing procedures represent informal proceedings which are the  
7 preliminary stages or the review stages of a multilevel hearing process, if the  
8 provisions of this chapter or the provisions of a substantially equivalent  
9 hearing procedure exempted under subsection (3) of this section are applied at  
10 some level within the multilevel process.
- 11 (5) The Attorney General shall not exempt an agency from any requirement of this  
12 chapter until the agency establishes alternative procedures by administrative  
13 regulation which, insofar as practical, shall be consistent with the intent and  
14 purpose of this chapter. When regulations for alternative procedures are submitted  
15 to the Administrative Regulation Review Subcommittee, they shall be accompanied  
16 by the request for exemption and the approval of exemption from the Attorney  
17 General. The decision of the Attorney General, whether affirmative or negative,  
18 shall be subject to judicial review in the Franklin Circuit Court within thirty (30)  
19 days of the date of issuance. The court shall not overturn a decision of the Attorney  
20 General unless the decision was arbitrary or capricious or contrary to law.
- 21 (6) Except to the extent precluded by another provision of law, a person may waive any  
22 procedural right conferred upon that person by this chapter.
- 23 (7) The provisions of KRS 13B.030(2)(b) shall not apply to administrative hearings  
24 held under KRS 11A.100 or 18A.095.
- 25 ➔Section 13. KRS 151B.015 is amended to read as follows:
- 26 (1) The Education and Labor Cabinet is hereby created, which shall constitute a cabinet  
27 of the state government within the meaning of KRS Chapter 12. The cabinet shall

1 consist of a secretary and those administrative bodies and employees as provided by  
2 law.

3 (2) Subject to KRS Chapter 12, the cabinet shall be composed of the major  
4 organizational units listed below, units listed in KRS 12.020, and other  
5 departments, divisions, and sections as are from time to time deemed necessary for  
6 the proper and efficient operation of the cabinet:

7 (a) Office of the Secretary, which shall include the Office of Legal Services, the  
8 Office of Administrative Services, the Office of Technology Services, the  
9 Office of Policy and Audit, the Office of Legislative Services, the Office of  
10 Communications, and the Office of Kentucky Center for Statistics, as follows:

11 1. The Office of Legal Services shall:

12 a. Be headed by an executive director appointed by the secretary with  
13 the approval of the Governor in accordance with KRS 12.050 and  
14 12.210; and

15 b. Include the Workplace Standards Legal Division ~~and~~ Workforce  
16 Development Legal Division~~, and Workers' Claims Legal~~  
17 ~~Division~~, each of which shall be headed by a general counsel  
18 appointed by the secretary with the approval of the Governor in  
19 accordance with KRS 12.050 and 12.210; and

20 2. The following agencies and entities are attached to the Office of the  
21 Secretary for administrative purposes only:

22 a. Early Childhood Advisory Council;

23 b. Governor's School for Entrepreneurs Program;

24 c. Governor's Scholar Program;

25 d. Board of the Kentucky Center for Statistics; and

26 e. Foundation for Adult Education;

27 (b) ~~Department of Workers' Claims, which shall be headed by a commissioner~~

1           ~~appointed by the Governor and confirmed by the Senate in accordance with~~  
 2           ~~KRS 342.228. The department shall be divided for administrative purposes~~  
 3           ~~into the Office of Administrative Law Judges, the Division of Claims~~  
 4           ~~Processing, the Division of Security and Compliance, the Division of~~  
 5           ~~Workers' Compensation Funds, and the Division of Specialist and Medical~~  
 6           ~~Services. The Office of Administrative Law Judges shall be headed by a chief~~  
 7           ~~administrative law judge appointed in accordance with KRS 342.230. Each~~  
 8           ~~division in the department shall be headed by a director appointed by the~~  
 9           ~~secretary with the approval of the Governor in accordance with KRS 12.050.~~  
 10          ~~The Workers' Compensation Board shall be attached to the Department of~~  
 11          ~~Workers' Claims for administrative purposes only;~~

12          ~~(e)~~ Department of Workplace Standards, which shall be headed by a  
 13          commissioner appointed by the Governor in accordance with KRS 12.040 and  
 14          shall be divided for administrative purposes into the Division of Occupational  
 15          Safety and Health Compliance, the Division of Occupational Safety and  
 16          Health Education and Training, and the Division of Wages and Hours. Each  
 17          of these divisions shall be headed by a director appointed by the secretary  
 18          with the approval of the Governor in accordance with KRS 12.050;

19          ~~(c)~~~~(d)~~ Office of Unemployment Insurance, which shall be headed by an  
 20          executive director appointed by the Governor in accordance with KRS  
 21          12.040;

22          ~~(d)~~~~(e)~~ Kentucky Unemployment Insurance Commission;

23          ~~(e)~~~~(f)~~ Department for Libraries and Archives;

24          ~~(f)~~~~(g)~~ Office of Educational Programs;

25          ~~(g)~~~~(h)~~ Kentucky Workforce Innovation Board;

26          ~~(h)~~~~(i)~~ Department for Disability Determination Services, which shall include  
 27          the:

- 1           1.    Division of Operations;
- 2           2.    Division of Support Services;
- 3           3.    Division of Specialized Cases; and
- 4           4.    Division of Case Processing; and

5           ~~(i)(j)~~    Department of Workforce Development, which shall be headed by a  
6           commissioner appointed by the Governor in accordance with KRS 12.040  
7           who shall report to the secretary. Each office or division in the department  
8           shall be headed by an executive director or division director appointed by the  
9           secretary with the approval of the Governor in accordance with KRS 12.050.

10          The department shall be composed of the following offices:

- 11          1.    Career Development Office;
- 12          2.    Office of Vocational Rehabilitation, which shall include the Division of  
13          Program Policy and Support. The division director shall report to the  
14          executive director for the Office of Vocational Rehabilitation;
- 15          3.    Office of Industry and Apprenticeship Services, which shall include the  
16          Division of Apprenticeship and the Division of Workforce Talent. The  
17          division directors shall report to the executive director of the Office of  
18          Industry and Apprenticeship Services;
- 19          4.    Office of Adult Education;
- 20          5.    Kentucky Apprenticeship Council, which shall be attached to the  
21          department for administrative purposes only;
- 22          6.    Division of Technical Assistance; and
- 23          7.    Office of the Kentucky Workforce Innovation Board.

24    (3)    The following agencies are attached to the cabinet for administrative purposes only:

- 25          (a)   Kentucky Occupational Safety and Health Review Commission;
- 26          (b)   State Labor Relations Board;
- 27          (c)   Workers' Compensation Funding Commission;

- 1 (d) Kentucky Occupational Safety and Health Standards Board;
- 2 (e) Kentucky Environmental Education Council;
- 3 (f) Kentucky Geographic Education Board;
- 4 (g) Board of Directors for the Center for School Safety;
- 5 (h) Kentucky Commission on Proprietary Education;
- 6 (i) Employers' Mutual Insurance Authority;
- 7 (j) Workers' Compensation Nominating Committee;
- 8 (k) Kentucky Commission on the Deaf and Hard of Hearing;
- 9 (l) Kentucky Educational Television;
- 10 (m) Kentucky Work Ready Skills Advisory Committee; and
- 11 (n) Foundation for Adult Education.

12 ➔Section 14. KRS 218A.278 is amended to read as follows:

13 (1) As used in~~For the purposes of~~ this section:

- 14 (a) "Analyze" means to apply scientific and mathematical measures to determine
- 15 meaningful patterns and associations in data. "Analyze" includes descriptive
- 16 analysis to examine historical data, predictive analysis to examine future
- 17 probabilities and trends, and prescriptive analysis to examine how future
- 18 decisions may impact the population and trends; and
- 19 (b) "Pilot program" means a program in a county or set of counties, or a subset or
- 20 subsets of the population, as designated by the Cabinet for Health and Family
- 21 Services and the Office of Drug Control Policy for analyzing the effectiveness
- 22 of substance abuse treatment services in Kentucky.

23 (2) The general purpose of this section is to assist in the development of a pilot

24 program to analyze the outcomes and effectiveness of substance abuse treatment

25 programs in order to ensure that the Commonwealth is:

- 26 (a) Addressing appropriate risk and protective factors for substance abuse in a
- 27 defined population;

- 1 (b) Using approaches that have been shown to be effective;
- 2 (c) Intervening early at important stages and transitions;
- 3 (d) Intervening in appropriate settings and domains; and
- 4 (e) Managing programs effectively.
- 5 (3) Sources of data for the pilot program shall include, at a minimum, claims under the
- 6 Kentucky Department for Medicaid Services, the electronic monitoring system for
- 7 controlled substances established under KRS 218A.202, and the Department of
- 8 Workers' Claims~~[within the Education and Labor Cabinet]~~.
- 9 (4) As funds are available, the Cabinet for Health and Family Services and the Office
- 10 of Drug Control Policy shall initiate a pilot program to determine, collect, and
- 11 analyze performance measurement data for substance abuse treatment services to
- 12 determine practices that reduce frequency of relapse, provide better outcomes for
- 13 patients, hold patients accountable, and control health costs related to substance
- 14 abuse.
- 15 (5) By December 31, 2016, the Cabinet for Health and Family Services and the Office
- 16 of Drug Control Policy shall issue a joint report to the Legislative Research
- 17 Commission and the Office of the Governor that:
- 18 (a) Details the findings of the pilot program;
- 19 (b) Includes recommendations based on the pilot program's results for optimizing
- 20 substance abuse treatment services; and
- 21 (c) Includes recommendations for the continued application of analytics to further
- 22 augment Kentucky's approach to fighting substance abuse in the future.
- 23 ➔Section 15. KRS 304.13-167 is amended to read as follows:
- 24 (1) Every workers' compensation insurer shall adhere to a uniform classification system
- 25 and uniform experience rating system filed with the commissioner by an advisory
- 26 organization designated by the commissioner.
- 27 (2) Every workers' compensation insurer shall report its experience in accordance with

1 the statistical plans and other reporting requirements in use by an advisory  
2 organization designated by the commissioner.

3 (3) A workers' compensation insurer may develop subclassifications of the uniform  
4 classification system upon which rates may be made. These subclassifications and  
5 their filing shall be subject to the provisions of this chapter applicable to filings  
6 generally.

7 (4) A workers' compensation insurer may develop rating plans which identify loss  
8 experience as a factor to be used. These rating plans and their filing shall be subject  
9 to the provisions of this chapter applicable to filings generally.

10 (5) The commissioner shall disapprove subclassifications, rating plans, or other  
11 variations from manual rules filed by a workers' compensation insurer if the insurer  
12 fails to demonstrate that the data thereby produced can be reported consistent with  
13 the uniform classification system and experience rating system and in such a  
14 fashion so as to allow for the application of experience rating filed by the advisory  
15 organization.

16 (6) The commissioner shall approve rating plans for workers' compensation insurance  
17 that give specific identifiable consideration in the setting of rates to employers who  
18 implement a drug-free workplace program pursuant to administrative regulations  
19 adopted by the Department of Workers' Claims~~[ in the Education and Labor~~  
20 ~~Cabinet]~~. The plans shall take effect January 1, 2008, shall be actuarially sound, and  
21 shall state the savings anticipated to result from such drug-free workplace  
22 programs. The credit shall be at least five percent (5%) unless the commissioner  
23 determines that five percent (5%) is actuarially unsound. The commissioner is also  
24 authorized to develop a schedule of premium credits for workers' compensation  
25 insurance for employers who have safety programs that contain certain criteria for  
26 safety programs. The commissioner shall consult with the commissioner of the  
27 Department of Workers' Claims~~[ in the Education and Labor Cabinet]~~ in setting

1 such criteria. A drug-free workplace credit under this subsection shall not be  
2 available to employers who receive a credit under KRS 304.13-412 or KRS Chapter  
3 351.

4 ➔Section 16. KRS 304.20-090 is amended to read as follows:

5 Any insurer providing workers' compensation insurance coverage for a Kentucky  
6 location shall provide proof of coverage to the commissioner of the Department of  
7 Workers' Claims~~[ in the Education and Labor Cabinet]~~ in accordance with the  
8 requirements of the chapter.

9 ➔Section 17. KRS 342.1223 is amended to read as follows:

10 (1) The Kentucky Workers' Compensation Funding Commission is created as an  
11 agency of the Commonwealth for the public purpose of controlling, investing, and  
12 managing the funds collected pursuant to KRS 342.122.

13 (2) The commission shall:

14 (a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS  
15 342.122 and its other funds separate and apart from all "state funds" or "public  
16 funds," as defined in KRS Chapter 446;

17 (b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power  
18 over the funds collected pursuant to KRS 342.122, and may invest association  
19 funds through one (1) or more banks, trust companies, or other financial  
20 institutions with offices in Kentucky in good standing with the Department of  
21 Financial Institutions, in investments described in KRS Chapter 386, except  
22 that the funding commission may, at its discretion, invest in equity securities;

23 (c) Report to the General Assembly at each even-numbered-year regular session  
24 the actuarial soundness and adequacy of the funding mechanism for the  
25 special fund and other programs supported by the mechanism, including  
26 detailed information on the investment of funds and yields thereon;

27 (d) Recommend to the General Assembly, not later than October 31 of the year

- 1 prior to each even-numbered-year regular legislative session, changes deemed  
2 necessary in the level of the assessments imposed in this chapter;
- 3 (e) In conjunction with the commissioner~~[Education and Labor Cabinet]~~, submit  
4 to the General Assembly, not later than October 31 of the year prior to each  
5 even-numbered-year regular legislative session, a proposed budget for the  
6 biennium beginning July 1 following the even-numbered-year regular session  
7 of the General Assembly;
- 8 (f) In conjunction with the commissioner~~[Education and Labor Cabinet]~~, provide  
9 to the Interim Joint Committee on Appropriations and Revenue an annual  
10 budget and detailed quarterly financial reports;
- 11 (g) Conduct periodic audits, independently or in cooperation with the Department  
12 of Workers' Claims~~[Education and Labor Cabinet]~~ or the Department of  
13 Revenue, of all entities subject to the assessments imposed in this chapter; and
- 14 (h) Report monthly to the Committees on Appropriations and Revenue and on  
15 Economic Development and Workforce Investment its monthly expenditures  
16 of restricted agency funds and the nature of the expenditures.
- 17 (3) The commission shall have all of the powers necessary or convenient to carry out  
18 and effectuate the purposes for which it was established, including, but not limited  
19 to, the power:
- 20 (a) To sue and be sued, complain, or defend, in its name;
- 21 (b) To elect, appoint, or hire officers, agents, and employees, and define their  
22 duties and fix their compensation within the limits of its budget approved by  
23 the General Assembly. Notwithstanding any provision of KRS Chapter 18A  
24 to the contrary, officers and employees of the funding commission may be  
25 exempted from the classified service;
- 26 (c) To contract for investment counseling, legal, actuarial, auditing, and other  
27 professional services in accordance with the provisions relating to personal

1 service contracts contained in KRS Chapter 45A;

2 (d) To appoint, hire, and contract with banks, trust companies, and other entities  
3 to serve as depositories and custodians of its investment receipts and other  
4 funds;

5 (e) To take any and all other actions consistent with the purposes of the  
6 commission and the provisions of this chapter; and

7 (f) To make and promulgate administrative regulations.

8 (4) The Kentucky Workers' Compensation Funding Commission may utilize the  
9 investment expertise and advice of the Office of Financial Management within the  
10 Finance and Administration Cabinet. The Kentucky Workers' Compensation  
11 Funding Commission may procure one (1) or more consulting firms and enter into a  
12 personal service contract with such consulting firms to provide investment  
13 advisory, investment counseling, or investment management services. The Office of  
14 Financial Management shall participate in the selection of any firms for investment  
15 services provided, however, the Kentucky Workers' Compensation Funding  
16 Commission shall have the right to make the final decision on the selection of any  
17 firms. Notwithstanding any provisions of this section to the contrary, all contracts  
18 for investment advisory, investment counseling, or investment management  
19 services or for the management of assets shall be subject to KRS Chapter 45A. The  
20 fees charged by financial institutions for managing the investments of the funds of  
21 the funding commission shall be paid from the investment earnings of the funds.

22 (5) The commission shall be attached to the Education and Labor Cabinet for  
23 administrative purposes only.

24 ➔Section 18. The Workers' Claims Legal Division within the Office of Legal  
25 Services of the Education and Labor Cabinet shall be transferred to the Department of  
26 Workers' Claims as the Office of General Counsel.

27 ➔Section 19. Upon the effective date of this Act, all records, files, documents,

1 equipment, staff, supporting budgets, and any and all unexpended funds associated with  
2 the activities of the Department of Workers' Claims when it was attached to the  
3 Education and Labor Cabinet shall be transferred to the Department of Workers' Claims  
4 administratively attached to the Office of the Governor. All administrative regulations,  
5 decisions, and actions promulgated, made, or taken by the Department of Workers'  
6 Claims prior to the effective date of this Act that have not been repealed or rescinded  
7 shall continue in effect on or after the effective date of this Act, unless and until they are  
8 amended, repealed, or rescinded by the department after the effective date of this Act.

9       ➔Section 20. Whereas it is critical to the proper management and administration  
10 of the reorganized Department of Workers' Claims that consolidation take place as soon  
11 as possible, an emergency is declared to exist, and this Act takes effect upon its passage  
12 and approval by the Governor or upon its otherwise becoming a law.