

**CHAPTER 164****(SB 82)**

AN ACT relating to state government.

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

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

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

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

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

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
  - (a) Department of State Police.
  - (b) Department of Criminal Justice Training.
  - (c) Department of Corrections.

- (d) Department of Juvenile Justice.
  - (e) Office of the Secretary.
  - (f) Offices of the Deputy Secretaries.
  - (g) Office of General Counsel.
  - (h) Division of Kentucky State Medical Examiners Office.
  - (i) Parole Board.
  - (j) Kentucky State Corrections Commission.
  - (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
- (a) Department of Education.
    - (1) Kentucky Board of Education.
    - (2) Education Professional Standards Board.
  - (b) Department for Libraries and Archives.
  - (c) Kentucky Arts Council.
  - (d) Kentucky Educational Television.
  - (e) Kentucky Historical Society.
  - (f) Kentucky Teachers' Retirement System Board of Trustees.
  - (g) Kentucky Center for the Arts.
  - (h) Kentucky Craft Marketing Program.
  - (i) Kentucky Commission on the Deaf and Hard of Hearing.
  - (j) Governor's Scholars Program.
  - (k) Governor's School for the Arts.
  - (l) Operations and Development Office.
  - (m) Kentucky Heritage Council.
  - (n) Kentucky African-American Heritage Commission.
  - (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
- (a) Environmental Quality Commission.
  - (b) Kentucky Nature Preserves Commission.
  - (c) Department for Environmental Protection.
  - (d) Department for Natural Resources.
  - (e) Department for Surface Mining Reclamation and Enforcement.
  - (f) Office of Legal Services.
  - (g) Office of Information Services.

- (h) Office of Inspector General.
- 4. Transportation Cabinet:
  - (a) Department of Highways.
    - 1. Office of Program Planning and Management.
    - 2. Office of Project Development.
    - 3. Office of Construction and Operations.
    - 4. Office of Intermodal Programs.
    - 5. Highway District Offices One through Twelve.
  - (b) Department of Vehicle Regulation.
  - (c) Department of Administrative Services.
  - (d) Department of Fiscal Management.
  - (e) Department of Rural and Municipal Aid.
  - (f) Department of Human Resources Management.
  - (g) Office of the Secretary.
  - (h) Office of General Counsel and Legislative Affairs.
  - (i) Office of Public Affairs.
  - (j) Office of Transportation Delivery.
  - (k) Office of Minority Affairs.
  - (l) Office of Policy and Budget.
- 5. Cabinet for Economic Development:
  - (a) Department of Administration and Support.
  - (b) Department for Business Development.
  - (c) Department of Financial Incentives.
  - (d) Department of Community Development.
  - (e) Tobacco Research Board.
  - (f) Kentucky Economic Development Finance Authority.
- 6. Public Protection and Regulation Cabinet:
  - (a) Public Service Commission.
  - (b) Department of Insurance.
  - (c) Department of Housing, Buildings and Construction.
  - (d) Department of Financial Institutions.
  - (e) Department of Mines and Minerals.
  - (f) Department of Public Advocacy.
  - (g) Department of Alcoholic Beverage Control.

- (h) Kentucky Racing Commission.
  - (i) Board of Claims.
  - (j) Crime Victims Compensation Board.
  - (k) Kentucky Board of Tax Appeals.
  - (l) Backside Improvement Commission.
  - (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
  - (n) Department of Charitable Gaming.
7. Cabinet for Families and Children:
- (a) Department for Community Based Services.
  - (b) Department for Disability Determination Services.
  - (c) Public Assistance Appeals Board.
  - (d) Office of the Secretary.
    - (1) Kentucky Commission on Community Volunteerism and Service.
  - (e) Office of the General Counsel.
  - (f) Office of Program Support.
  - (g) Office of Family Resource and Youth Services Centers.
  - (h) Office of Technology Services.
  - (i) Office of the Ombudsman.
  - (j) Office of Performance Enhancement.
8. Cabinet for Health Services.
- (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission on Children with Special Health Care Needs.
  - (e) Office of Certificate of Need.
  - (f) Office of the Secretary.
  - (g) Office of the General Counsel.
  - (h) Office of Program Support.
  - (i) Office of the Inspector General.
  - (j) Office of Aging Services.
9. Finance and Administration Cabinet:
- (a) Office of Legal and Legislative Services.
  - (b) Office of Management and Budget.
  - (c) Office of Financial Management.

- (d) Office of the Controller.
- (e) Department for Administration.
- (f) Department of Facilities Management.
- (g) State Property and Buildings Commission.
- (h) Kentucky Pollution Abatement Authority.
- (i) Kentucky Savings Bond Authority.
- (j) Deferred Compensation Systems.
- (k) Office of Equal Employment Opportunity Contract Compliance.
- (l) Office of Capital Plaza Operations.
- (m) County Officials Compensation Board.
- (n) Kentucky Employees Retirement Systems.
- (o) Commonwealth Credit Union.
- (p) State Investment Commission.
- (q) Kentucky Housing Corporation.
- (r) Governmental Services Center.
- (s) Kentucky Local Correctional Facilities Construction Authority.
- (t) Kentucky Turnpike Authority.
- (u) Historic Properties Advisory Commission.
- (v) ~~Kentucky Kare Health Insurance Authority.~~
- (w) Kentucky Tobacco Settlement Trust Corporation.

10. Labor Cabinet:

- (a) Department of Workplace Standards.
- (b) Department of Workers' Claims.
- (c) Kentucky Labor-Management Advisory Council.
- (d) Occupational Safety and Health Standards Board.
- (e) Prevailing Wage Review Board.
- (f) Workers' Compensation Board.
- (g) Kentucky Employees Insurance Association.
- (h) Apprenticeship and Training Council.
- (i) State Labor Relations Board.
- (j) Kentucky Occupational Safety and Health Review Commission.
- (k) Office of Administrative Services.
- (l) Office of Labor-Management Relations and Mediation.
- (m) Office of General Counsel.

- (n) Workers' Compensation Funding Commission.
  - (o) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
- (a) Department of Property Valuation.
  - (b) Department of Tax Administration.
  - (c) Office of Financial and Administrative Services.
  - (d) Department of Law.
  - (e) Department of Information Technology.
  - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
- (a) Department of Travel.
  - (b) Department of Parks.
  - (c) Department of Fish and Wildlife Resources.
  - (d) Kentucky Horse Park Commission.
  - (e) State Fair Board.
  - (f) Office of Administrative Services.
  - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
- (a) Department for Adult Education and Literacy.
  - (b) Department for Technical Education.
  - (c) Department of Vocational Rehabilitation.
  - (d) Department for the Blind.
  - (e) Department for Employment Services.
  - (f) State Board for Adult and Technical Education.
  - (g) The State Board for Proprietary Education.
  - (h) The Foundation for Adult Education.
  - (i) Office of Training and Reemployment.
  - (j) Office of General Counsel.
  - (k) Office of Communication Services.
  - (l) Office of Development and Industry Relations.
  - (m) Office of Workforce Analysis and Research.
  - (n) Office for Administrative Services.
  - (o) Office for Policy and Budget.
  - (p) Office of Personnel Services.

- (q) Unemployment Insurance Commission.
- 14. Personnel Cabinet:
  - (a) Office of Administrative and Legal Services.
  - (b) Department for Personnel Administration.
  - (c) Department for Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Kentucky Kare.
  - (f) Division of Performance Management.
  - (g) Division of Employee Records.
  - (h) Division of Staffing Services.
  - (i) Division of Classification and Compensation.
  - (j) Division of Employee Benefits.
  - (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.

Section 2. KRS 18A.220 is amended to read as follows:

The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of KRS 18A.205 to 18A.225 ~~and KRS 42.800 to 42.825~~.

Section 3. KRS 42.0245 is amended to read as follows:

- (1) There is established within the Department for Administration in the Finance and Administration Cabinet the Division of Risk Management. The division shall be headed by a director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.
- (2) The Division of Risk Management shall:
  - (a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;

- (b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;
  - (c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees~~[-, including, but not limited to, assisting and monitoring the development of a program of health care self insurance for state employees as authorized by KRS 42.800 to 42.825];~~
  - (d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;
  - (e) Develop financing techniques for risk protection; and
  - (f) Develop and implement other risk management, insurance, and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity, and property risks.
- (3) Nothing in this section shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of Employee Benefits within the Personnel Cabinet and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs, and other self-insured programs with the Division of Risk Management.
- (4) All cabinets, departments, boards, commissions, and other state agencies shall provide to the Division of Risk Management the technical advice and other assistance the Division of Risk Management or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the division as described in this section.
- (5) The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the Division of Risk Management.

Section 4. KRS 45A.022 is amended to read as follows:

- (1) This chapter shall apply to all insurance contracts purchased by the Commonwealth, except where the commissioner of insurance determines, with the concurrence of the secretary of Finance and Administration Cabinet, that:
  - (a) An emergency exists;
  - (b) Competition is not feasible; or
  - (c) The annual premium is less than ten thousand dollars (\$10,000).
- (2) Notwithstanding subsection (1) of this section, the health insurance contract or contracts for state employees as authorized by KRS 18A.225~~[- and KRS 42.800 to 42.825]~~ shall be subject to the provisions of KRS 45A.080, 45A.085 and 45A.090.



Section 5. KRS 91A.080 is amended to read as follows:

- (1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those city, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.
- (2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.
- (3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.
- (4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.
- (5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

- (6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.
- (7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.
- (8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:
  - (a) Casualty;
  - (b) Automobile;
  - (c) Inland marine;
  - (d) Fire and allied perils;
  - (e) Health; and
  - (f) Life.
- (9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.
- (10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 ~~and KRS 42.800 to 42.825~~.
- (11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.
- (12)
  - (a) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.
  - (b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city

license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

- (13) No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.

Section 6. KRS 136.330 is amended to read as follows:

- (1) Every life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the Revenue Cabinet a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted. Premium receipts shall not include annuity premiums or annuity dividends beginning in calendar year 2000.
- (2) (a) An annual tax on premium receipts shall be imposed against every company making a return under this subsection for calendar years beginning before 2000 at a rate of two dollars (\$2) upon each one hundred dollars (\$100) of premium receipts.
- (b) An annual tax on premium receipts shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, and every company making a return under this section, for calendar years beginning in 2000 as follows:
1. For calendar year 2000, one dollar and ninety cents (\$1.90) upon each one hundred dollars (\$100) of premium receipts;
  2. For calendar year 2001, one dollar and eighty cents (\$1.80) upon each one hundred dollars (\$100) of premium receipts;
  3. For calendar year 2002, one dollar and seventy cents (\$1.70) upon each one hundred dollars (\$100) of premium receipts;
  4. For calendar year 2003, one dollar and sixty cents (\$1.60) upon each one hundred dollars (\$100) of premium receipts; and
  5. For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents (\$1.50) on each one hundred dollars (\$100) of premium receipts.
- (3) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 ~~and KRS 42.800 to 42.825~~ shall not be subject to taxation under this section.

Section 7. KRS 136.340 is amended to read as follows:

- (1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the Revenue Cabinet a statement under oath of all amounts paid to the company or its representative, whether designated as

premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars (\$2) upon each one hundred dollars (\$100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

- (2) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 ~~and KRS 42.800 to 42.825~~ shall not be subject to taxation under this section.

Section 8. KRS 136.350 is amended to read as follows:

- (1) All mutual companies other than life doing business under this law shall pay to the Revenue Cabinet on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.
- (2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.
- (3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.
- (4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.
- (5) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 **and**~~[,]~~ 18A.228~~[, and KRS 42.800 to 42.825]~~ shall not be subject to taxation under this section.

Section 9. KRS 205.640 is amended to read as follows:

- (1) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.
- (2) The "Medical Assistance Revolving Trust Fund" (MART) shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury and transferred on a quarterly basis to the Department for Medicaid Services for use as specified in this section. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.
- (3) (a) Beginning in state fiscal year 2000-2001 and continuing annually thereafter, provider tax revenues and state and federal matching funds shall be used to fund the disproportionate share program established by the commissioner of Medicaid services.

Disproportionate share funds shall be divided into three (3) pools for distribution as follows:

1. Forty-three and ninety-two hundredths percent (43.92%) of the total disproportionate share funds shall be allocated to acute care hospitals;
2. Thirty-seven percent (37%) of the total disproportionate share funds shall be allocated to university hospitals; and
3. Nineteen and eight hundredths percent (19.08%) of the total disproportionate share funds shall be allocated to private psychiatric hospitals and state mental hospitals, with the allocation to each respective group of hospitals established by the biennial budget.

If, in any year, one (1) or both university hospitals fail to provide state matching funds necessary to secure federal financial participation for the funds allocated to university hospitals under this subsection, the portion of the funding allocation applicable to the hospital or hospitals that fail to provide state matching funds shall be made available to acute care hospitals.

- (b) The MART fund shall be used to compensate acute care hospitals, private psychiatric hospitals, and university hospitals qualifying for the disproportionate share program for uncompensated service provided by the hospitals to individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Health Services in accordance with this section.
- (c) An individual hospital shall receive distributions for indigent care provided by that hospital that meets the guidelines established in paragraph (a) of this subsection.
- (d) Distributions to acute care and private psychiatric hospitals shall be made as follows:
  1. The department shall calculate an indigent care factor for each hospital annually. The indigent care factor shall be determined by calculating the percentage of each hospital's annual indigent care costs toward the sum of the total annual indigent care costs for all hospitals within each respective pool. For purposes of this paragraph, "indigent care costs" means the hospital's inpatient and outpatient care as reported to the department multiplied by the hospital's Medicaid rate, or at a rate determined by the department in administrative regulation that, when multiplied by the hospital's reported indigent care, is equivalent to the amount that would be payable by the department under the fee-for-service Medicaid program for the hospital's total reported indigent care.
  2. Each hospital's annual distribution shall be calculated by multiplying the hospital's indigent care factor by the total fund allocated to all hospitals within the respective pool under paragraph (a) of this subsection.
    - a. Hospitals shall report uncompensated care provided to qualified individuals and families with total annual incomes and resources up to one hundred percent (100%) of the federal poverty level, including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital to the Cabinet for Health Services on a quarterly basis. However, all data for care provided during the state fiscal year shall be submitted no later than August 15 of each year.

- b. The department shall use indigent care data for services delivered from October 1, 1998, through September 30, 1999, as reported by hospitals to calculate each hospital's indigent care factor for state fiscal year 2000-2001. For state fiscal year 2001-2002 and each year thereafter, the department shall use data reported by the hospitals for indigent care services rendered for the twelve (12) month period ending June 30 of each year as reported by the hospital to the department by August 15 in calculating each hospital's indigent care factor. The hospital shall, upon request by the Cabinet for Health Services, submit any supporting documentation to verify the indigent care data submitted for the calculation of an indigent care factor and annual payment.
  - c. By September 1 of each year, the department shall calculate a preliminary indigent care factor and preliminary annual payment amount for each hospital, and shall notify each hospital of their calculation. The notice shall contain a listing of each hospital's indigent care costs, their indigent care factor, and the estimated annual payment amount. Hospitals shall notify the department by September 15 of any adjustments in the department's preliminary calculations. The department shall make adjustments identified by hospitals and shall make a final determination of each hospital's indigent care factor and annual payment amount by October 1.
- (e) For fiscal year 2000-2001 and continuing annually thereafter, the department shall issue to each hospital one (1) lump-sum payment on October 15, or later as soon as federal financial participation becomes available, for the disproportionate share funds available during the corresponding federal fiscal year.
- (4) Notwithstanding any other provision to contrary, total annual disproportionate share payments made to state mental hospitals, university hospitals, acute care hospitals, and private psychiatric hospitals in each state fiscal year shall be equal to the maximum amount of disproportionate share payments established under the Federal Balanced Budget Act of 1997 and any amendments thereto. Disproportionate share payments shall be subject to the availability of adequate state matching funds and shall not exceed total uncompensated costs.
- (5) Hospitals receiving reimbursement shall not bill patients for services submitted for reimbursement under this section and KRS 205.641. Services provided to individuals who are eligible for medical assistance or the Kentucky Children's Health Insurance Program do not qualify for reimbursement under this section and KRS 205.641. Hospitals shall make a reasonable determination that an individual does not qualify for these programs and shall request the individual to apply, if appropriate, for medical assistance or Kentucky Children's Health Insurance on forms supplied by and in accordance with procedures established by the Department for Medicaid Services. The hospital shall document any refusal to apply and shall inform the patient that the refusal may result in the patient being billed for any services performed. The hospital shall not be eligible for reimbursement if the patient was eligible for medical assistance or Kentucky Children's Health Insurance and did not apply. Hospitals receiving reimbursement under this section and KRS 205.641 shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred percent (100%) of the federal poverty level.

- (6) The secretary of the Cabinet for Health Services shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.
- (7) All hospitals receiving reimbursement under this section and KRS 205.641 shall:
- ~~(a) display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay.";~~ and
- ~~(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and KRS 42.800 to 42.825.~~

SECTION 10. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

*To ensure that Kentuckians with disabilities and their families enjoy full partnership in all programs, services, and activities throughout the Commonwealth:*

- (1) *Consistent with this subsection, consideration shall be given to persons with one (1) or more disabilities for membership on any board, task force, or commission established by the Legislative Research Commission or the General Assembly. Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity for membership on any board, task force, or commission established by the Legislative Research Commission or the General Assembly consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (2) *Individuals with disabilities shall be given an equal opportunity to participate in programs, services, and activities established by the Legislative Research Commission consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (3) *If not already a part of staff development training, a program shall be established within the Legislative Research Commission with a disability awareness component; and*
- (4) *If program evaluation criteria are utilized by the Legislative Research Commission, the criteria may include in the measures of performance, the number of individuals served by the program, service, or activity.*

Section 11. KRS 7.1105 is amended to read as follows:

- (1) To ensure opportunities for participation by persons with disabilities and their families in the development of policies, support, and services that affect them:
- (a) Persons with one (1) or more disabilities, or members of their families, who may be affected by or be the subject of an advisory board, committee, commission, task force, or ad hoc committee, shall be included in the membership of each advisory board, committee, commission, task force, or ad hoc committee of the Legislative Research Commission or the General Assembly.
- (b) Persons with one (1) or more disabilities, or members of their families, shall be included in the membership of any advisory committee, board, or commission of the Legislative Research Commission or General Assembly whose mission or purpose is to make recommendations or to establish criteria for services and support for persons with disabilities or to develop standards that govern the services and support funded or administered by any state government agency.

(c) *Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity for membership on any board, task force, or commission established by the Legislative Research Commission or the General Assembly consistent with and to the extent required by the Federal Americans with Disabilities Act.*

- (2) As used in this section, "disability" has the same meaning as in KRS 12.450.
- (3) The requirements of this section shall affect all boards, committees, commissions, task forces, or ad hoc committees created on or after *the effective date of this Act*~~[July 15, 1996]~~.
- (4) For boards, committees, commissions, task forces, or ad hoc committees in existence prior to *the effective date of this Act*~~[July 15, 1996]~~, any vacancy arising *on or* after *the effective date of this Act*~~[July 15, 1996]~~, shall be filled pursuant to this section.
- (5) The requirements of this section shall only apply to an advisory board, committee, commission, task force, or ad hoc committee that is created specifically to develop or oversee policies or programs related to persons living with a disability or their families, *except that the provisions of paragraph (c) of subsection (1) of this section shall apply.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 12.450 TO 12.465 IS CREATED TO READ AS FOLLOWS:

*To ensure that Kentuckians with disabilities and their families enjoy full partnership in all programs, services, and activities throughout the Commonwealth:*

- (1) *Consistent with this subsection, consideration shall be given to persons with one (1) or more disabilities for employment in decision-making positions in every program, cabinet, department, and agency of state government. Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity to be employed in decision-making positions in every program, cabinet, department, and agency of state government consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (2) *Individuals with disabilities shall be given equal opportunity to participate in the programs, services, and activities of state government consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (3) *If not already a part of staff development training for state government, a program shall be developed within the Personnel Cabinet containing a disability awareness component;*
- (4) *Consistent with this subsection, consideration shall be given to persons with one (1) or more disabilities for employment in decision-making positions in any community-based agency that receives funds from any executive cabinet or any of its subdivisions. Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity to be employed in decision-making positions in any community-based agency that receives funds from any executive cabinet or any of its subdivisions consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (5) *If program evaluation criteria is utilized by any community-based agency that receives funds from any executive cabinet or any of its subdivisions for its programs, services, and activities, the criteria may include in the measures of performance, the number of individuals served by the program, service, or activity;*



- (6) *Individuals with disabilities shall be given equal opportunity to participate in the programs, services, and activities of community-based agencies that receive funds from any executive cabinet or any of its subdivisions consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (7) *If a community-based agency that receives funds from any executive cabinet or any of its subdivisions engages in staff development and training, that community-based agency shall include a program with a disability awareness component;*
- (8) *If a community-based agency that receives funds from any executive cabinet or any of its subdivisions utilizes program evaluation criteria, those criteria may include in any measures of performance, the number of individuals served by the program, service, or activity.*

Section 13. KRS 12.460 is amended to read as follows:

To ensure opportunities for participation by persons with disabilities and their families in the development of policies, support, and services that affect them:

- (1) Persons with one (1) or more disabilities, or members of their families, who receive the services and support of an advisory board, committee, commission, task force, or ad hoc committee of any executive cabinet or any of its subdivisions shall be included in the membership of each of these advisory boards, committees, commissions, task forces, or ad hoc committees.
- (2) Persons with one (1) or more disabilities, or members of their families, shall be included in the membership of local community-based agency governing boards that receive funds directly or indirectly from any executive cabinet or any of its subdivisions to provide services and support to persons with disabilities and their families.
- (3) Persons with one (1) or more disabilities, or members of their families, shall be included in the membership of any advisory committee, board, or commission funded or administered by any executive cabinet or any of its subdivisions whose purpose is to establish criteria for services and support for persons with disabilities, or to develop standards that govern these services and support.
- (4) *Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity for membership on any other advisory board, committee, commission, task force, or ad hoc committee consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (5) The requirements of this section and KRS 12.465 shall only apply to an advisory board, committee, commission, task force, or ad hoc committee that is created specifically to develop or oversee policies or programs related to persons living with a disability or their families, *except that the provisions of subsection (4) of this section shall apply.*

Section 14. KRS 12.465 is amended to read as follows:

- (1) The requirements of KRS 12.450 to 12.465 shall affect all boards, committees, commissions, task forces, or ad hoc committees created on or after *the effective date of this Act*~~[July 15, 1996]~~.
- (2) For boards, committees, commissions, task forces, or ad hoc committees in existence prior to *the effective date of this Act*~~[July 15, 1996]~~, any vacancy arising *on or* after *the effective date of this Act*~~[July 15, 1996]~~, shall be filled pursuant to KRS 12.460.

SECTION 15. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

*To ensure that Kentuckians with disabilities and their families enjoy full partnership in all programs, services, and activities throughout the Commonwealth:*

- (1) *Consistent with this subsection, consideration shall be given to persons with one (1) or more disabilities for employment in decision-making positions in the judicial branch of government. Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity to be employed in decision-making positions in programs created or under the jurisdiction of the judicial branch consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (2) *Individuals with disabilities shall be given equal opportunity to participate in the programs established by the judicial branch consistent with and to the extent required by the Federal Americans with Disabilities Act;*
- (3) *If not already a part of staff development training for the judicial branch, a program shall be developed with a disability awareness component;*
- (4) *If program evaluation criteria are utilized by the judicial branch for its programs, services, and activities, the criteria may include in the measures of performance, the number of individuals served by the program, service, or activity.*

Section 16. KRS 26A.012 is amended to read as follows:

- (1) To ensure opportunities for participation by persons with disabilities and their families in the development of policies, support, and services that affect them:
  - (a) Persons with one (1) or more disabilities, or members of their families, who may be affected by or be the subject of an advisory board, committee, commission, task force, or ad hoc committee, shall be included in the membership of each advisory board, committee, commission, task force, or ad hoc committee of the judicial branch.
  - (b) Persons with one (1) or more disabilities, or members of their families, shall be included in the membership of any advisory committee, board, or commission of the judicial branch whose mission or purpose is to make recommendations or to establish criteria for services and support for persons with disabilities or to develop standards that govern the services and support funded or administered by any state government agency.
  - (c) *Persons with one (1) or more disabilities shall not be discriminated against and shall be given an equal opportunity to be included in the membership of any other advisory board, committee, commission, task force, or ad hoc committee consistent with and to the extent required by the Federal Americans with Disabilities Act.*
- (2) As used in this section "disability" has the same meaning as in KRS 12.450.
- (3) The requirements of this section shall affect all boards, committees, commissions, task forces, or ad hoc committees created on or after *the effective date of this Act* ~~[July 15, 1996]~~.
- (4) For boards, committees, commissions, task forces, or ad hoc committees in existence prior to *the effective date of this Act* ~~[July 15, 1996]~~, any vacancy arising *on or* after *the effective date of this Act* ~~[July 15, 1996]~~, shall be filled pursuant to this section.

- (5) The requirements of this section shall only apply to an advisory board, committee, commission, task force, or ad hoc committee that is created specifically to develop or oversee policies or programs related to persons living with a disability or their families, *except that the provisions of paragraph (c) of subsection (1) of this section shall apply.*

Section 17. The General Assembly confirms Executive Order 2000-602, dated May 22, 2000, relating to the abolishment of the Kentucky Kare Health Insurance Authority, to the extent it is not otherwise confirmed by this Act.

Section 18. The following KRS sections are repealed:

- 18A.2288 Coverage of pre-existing conditions in changes of state health plan and upon retirement of CERS or KERS member.
- 18A.229 Alternative health coverage plans for state employees.
- 42.800 Kentucky Kare Health Insurance Authority -- Board of directors -- Executive director -- Annual audit.
- 42.805 Kentucky Kare health insurance fund -- Benefits -- Contributions -- Provisions of plan -- Group rates for disabled children.
- 42.810 Duties of authority -- Amounts credited to fund -- Investment of fund -- Annual report -- Actuarial evaluation.
- 42.815 Self-funded health insurance fund not subject to certain taxes.
- 42.820 Authority determines date on which option is available.
- 42.825 Exclusion of coverage for employment-related conditions.

**Approved March 30, 2001**