

1 AN ACT relating to the Workers' Compensation Funding Commission.

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

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

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

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

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

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

- 1 (c) Office of Communication.
- 2 (d) Office of Administrative Services.
  - 3 1. Division of Human Resources.
  - 4 2. Division of Operations and Support Services.
  - 5 3. Division of Fiscal Management.
- 6 (e) Office of Technology Services.
- 7 (f) Office of Educational Programs.
- 8 (g) Office of the Kentucky Center for Statistics.
- 9 (h) Board of the Kentucky Center for Statistics.
- 10 (i) Board of Directors for the Center for School Safety.
- 11 (j) Department of Education.
  - 12 1. Kentucky Board of Education.
  - 13 2. Kentucky Technical Education Personnel Board.
- 14 (k) Department for Libraries and Archives.
- 15 (l) Department of Workforce Investment.
  - 16 1. Office of Vocational Rehabilitation.
    - 17 a. Division of Kentucky Business Enterprise.
    - 18 b. Division of the Carl D. Perkins Vocational Training Center.
    - 19 c. Division of Blind Services.
    - 20 d. Division of Field Services.
    - 21 e. Statewide Council for Vocational Rehabilitation.
  - 22 2. Office of Unemployment Insurance.
  - 23 3. Office of Employer and Apprenticeship Services.
    - 24 a. Division of Apprenticeship.
  - 25 4. Office of Career Development.
  - 26 5. Office of Adult Education.
  - 27 6. Unemployment Insurance Commission.

- 1                   7.    Kentucky Apprenticeship Council.
- 2                   (m) Foundation for Workforce Development.
- 3                   (n)   Kentucky Workforce Investment Board.
- 4                   (o)   Education Professional Standards Board.
- 5                   1.    Division of Educator Preparation.
- 6                   2.    Division of Certification.
- 7                   3.    Division of Professional Learning and Assessment.
- 8                   4.    Division of Legal Services.
- 9                   (p)   Kentucky Commission on the Deaf and Hard of Hearing.
- 10                  (q)   Kentucky Educational Television.
- 11                  (r)   Kentucky Environmental Education Council.
- 12                  (3)   Energy and Environment Cabinet:
- 13                  (a)   Office of the Secretary.
- 14                   1.    Office of Legislative and Intergovernmental Affairs.
- 15                   2.    Office of Legal Services.
- 16                   a.    Legal Division I.
- 17                   b.    Legal Division II.
- 18                   3.    Office of Administrative Hearings.
- 19                   4.    Office of Communication.
- 20                   5.    Mine Safety Review Commission.
- 21                   6.    Office of Kentucky Nature Preserves.
- 22                   7.    Kentucky Public Service Commission.
- 23                  (b)   Department for Environmental Protection.
- 24                   1.    Office of the Commissioner.
- 25                   2.    Division for Air Quality.
- 26                   3.    Division of Water.
- 27                   4.    Division of Environmental Program Support.

- 1                   5.    Division of Waste Management.
- 2                   6.    Division of Enforcement.
- 3                   7.    Division of Compliance Assistance.
- 4           (c)    Department for Natural Resources.
- 5                   1.    Office of the Commissioner.
- 6                   2.    Division of Mine Permits.
- 7                   3.    Division of Mine Reclamation and Enforcement.
- 8                   4.    Division of Abandoned Mine Lands.
- 9                   5.    Division of Oil and Gas.
- 10                  6.    Division of Mine Safety.
- 11                  7.    Division of Forestry.
- 12                  8.    Division of Conservation.
- 13                  9.    Office of the Reclamation Guaranty Fund.
- 14           (d)    Office of Energy Policy.
- 15                   1.    Division of Energy Assistance.
- 16           (e)    Office of Administrative Services.
- 17                   1.    Division of Human Resources Management.
- 18                   2.    Division of Financial Management.
- 19                   3.    Division of Information Services.
- 20           (4)    Public Protection Cabinet.
- 21                   (a)    Office of the Secretary.
- 22                        1.    Office of Communications and Public Outreach.
- 23                        2.    Office of Legal Services.
- 24                            a.    Insurance Legal Division.
- 25                            b.    Charitable Gaming Legal Division.
- 26                            c.    Alcoholic Beverage Control Legal Division.
- 27                            d.    Housing, Buildings and Construction Legal Division.

- 1 e. Financial Institutions Legal Division.
- 2 f. Professional Licensing Legal Division.
- 3 3. Office of Administrative Hearings.
- 4 4. Office of Administrative Services.
- 5 a. Division of Human Resources.
- 6 b. Division of Fiscal Responsibility.
- 7 (b) Kentucky Claims Commission.
- 8 (c) Kentucky Boxing and Wrestling Commission.
- 9 (d) Kentucky Horse Racing Commission.
- 10 1. Office of Executive Director.
- 11 a. Division of Pari-mutuel Wagering and Compliance.
- 12 b. Division of Stewards.
- 13 c. Division of Licensing.
- 14 d. Division of Enforcement.
- 15 e. Division of Incentives and Development.
- 16 f. Division of Veterinary Services.
- 17 (e) Department of Alcoholic Beverage Control.
- 18 1. Division of Distilled Spirits.
- 19 2. Division of Malt Beverages.
- 20 3. Division of Enforcement.
- 21 (f) Department of Charitable Gaming.
- 22 1. Division of Licensing and Compliance.
- 23 2. Division of Enforcement.
- 24 (g) Department of Financial Institutions.
- 25 1. Division of Depository Institutions.
- 26 2. Division of Non-Depository Institutions.
- 27 3. Division of Securities.

- 1 (h) Department of Housing, Buildings and Construction.
- 2 1. Division of Fire Prevention.
- 3 2. Division of Plumbing.
- 4 3. Division of Heating, Ventilation, and Air Conditioning.
- 5 4. Division of Building Code Enforcement.
- 6 (i) Department of Insurance.
- 7 1. Division of Insurance Product Regulation.
- 8 2. Division of Administrative Services.
- 9 3. Division of Financial Standards and Examination.
- 10 4. Division of Agent Licensing.
- 11 5. Division of Insurance Fraud Investigation.
- 12 6. Division of Consumer Protection.
- 13 (j) Department of Professional Licensing.
- 14 1. Real Estate Authority.
- 15 (5) Labor Cabinet.
- 16 (a) Office of the Secretary.
- 17 1. Office of General Counsel.
- 18 a. Workplace Standards Legal Division.
- 19 b. Workers' Claims Legal Division.
- 20 2. Office of Administrative Services.
- 21 a. Division of Human Resources Management.
- 22 b. Division of Fiscal Management.
- 23 c. Division of Professional Development and Organizational
- 24 Management.
- 25 d. Division of Information Technology and Support Services.
- 26 3. Office of Inspector General.
- 27 (b) Department of Workplace Standards.

- 1                   1.    Division of Occupational Safety and Health Compliance.
- 2                   2.    Division of Occupational Safety and Health Education and
- 3                    Training.
- 4                   3.    Division of Wages and Hours.
- 5           (c)    Department of Workers' Claims.
- 6                   1.    ~~[Division of Workers' Compensation Funds.~~
- 7                   ~~2.—]Office of Administrative Law Judges.~~
- 8                   2.~~[3.]~~Division of Claims Processing.
- 9                   3.~~[4.]~~Division of Security and Compliance.
- 10                  4.~~[5.]~~Division of Information Services.
- 11                  5.~~[6.]~~Division of Specialist and Medical Services.
- 12                  6.~~[7.]~~Workers' Compensation Board.
- 13           (d)    Workers' Compensation Funding Commission.
- 14           (e)    Occupational Safety and Health Standards Board.
- 15           (f)    State Labor Relations Board.
- 16           (g)    Employers' Mutual Insurance Authority.
- 17           (h)    Kentucky Occupational Safety and Health Review Commission.
- 18           (i)    Workers' Compensation Nominating Committee.
- 19       (6)    Transportation Cabinet:
- 20           (a)    Department of Highways.
- 21                   1.    Office of Project Development.
- 22                   2.    Office of Project Delivery and Preservation.
- 23                   3.    Office of Highway Safety.
- 24                   4.    Highway District Offices One through Twelve.
- 25           (b)    Department of Vehicle Regulation.
- 26           (c)    Department of Aviation.
- 27           (d)    Department of Rural and Municipal Aid.



- 1                   1.    Office of Local Programs.
- 2                   2.    Office of Rural and Secondary Roads.
- 3                   (e)  Office of the Secretary.
- 4                   1.    Office of Public Affairs.
- 5                   2.    Office for Civil Rights and Small Business Development.
- 6                   3.    Office of Budget and Fiscal Management.
- 7                   4.    Office of Inspector General.
- 8                   (f)  Office of Support Services.
- 9                   (g)  Office of Transportation Delivery.
- 10                  (h)  Office of Audits.
- 11                  (i)  Office of Human Resource Management.
- 12                  (j)  Office of Information Technology.
- 13                  (k)  Office of Legal Services.
- 14                  (7)  Cabinet for Economic Development:
- 15                   (a)  Office of the Secretary.
- 16                   1.    Office of Legal Services.
- 17                   2.    Department for Business Development.
- 18                   3.    Department for Financial Services.
- 19                   a.    Kentucky Economic Development Finance Authority.
- 20                   b.    Finance and Personnel Division.
- 21                   c.    IT and Resource Management Division.
- 22                   d.    Compliance Division.
- 23                   e.    Incentive Administration Division.
- 24                   f.    Bluegrass State Skills Corporation.
- 25                   4.    Office of Marketing and Public Affairs.
- 26                   a.    Communications Division.
- 27                   b.    Graphics Design Division.

- 1                   5.   Office of Workforce, Community Development, and Research.
- 2                   6.   Office of Entrepreneurship.
- 3                   a.   Commission on Small Business Advocacy.
- 4           (8)   Cabinet for Health and Family Services:
- 5               (a)   Office of the Secretary.
- 6                   1.   Office of Health Data and Analytics.
- 7                   2.   Office of the Ombudsman and Administrative Review.
- 8                   3.   Office of Public Affairs.
- 9                   4.   Office of Legal Services.
- 10                  5.   Office of Inspector General.
- 11               (b)   Office of Finance and Budget.
- 12               (c)   Office of Human Resource Management.
- 13               (d)   Office of Administrative Services.
- 14               (e)   Office of Application Technology Services.
- 15               (f)   Department for Public Health.
- 16               (g)   Department for Medicaid Services.
- 17               (h)   Department for Behavioral Health, Developmental and Intellectual
- 18                   Disabilities.
- 19               (i)   Department for Aging and Independent Living.
- 20               (j)   Department for Community Based Services.
- 21               (k)   Department for Income Support.
- 22               (l)   Department for Family Resource Centers and Volunteer Services.
- 23               (m)   Office for Children with Special Health Care Needs.
- 24               (n)   Office of Legislative and Regulatory Affairs.
- 25           (9)   Finance and Administration Cabinet:
- 26               (a)   Office of the Secretary.
- 27               (b)   Office of the Inspector General.

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

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

- 1                   2.   Office of Human Resources and Access Control.
- 2                   3.   Division of Expositions.
- 3                   4.   Division of Kentucky Exposition Center Operations.
- 4                   5.   Division of Kentucky International Convention Center.
- 5                   6.   Division of Public Relations and Media.
- 6                   7.   Division of Venue Services.
- 7                   8.   Division of Personnel Management and Staff Development.
- 8                   9.   Division of Sales.
- 9                   10.  Division of Security and Traffic Control.
- 10                  11.  Division of Information Technology.
- 11                  12.  Division of the Louisville Arena.
- 12                  13.  Division of Fiscal and Contract Management.
- 13                  14.  Division of Access Control.
- 14                  (f)  Office of the Secretary.
  - 15                   1.   Office of Finance.
  - 16                   2.   Office of Government Relations and Administration.
  - 17                   3.   Office of Film and Tourism Development.
- 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               (11) 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    III.   Other departments headed by appointed officers:
- 22               (1)   Council on Postsecondary Education.
- 23               (2)   Department of Military Affairs.
- 24               (3)   Department for Local Government.
- 25               (4)   Kentucky Commission on Human Rights.
- 26               (5)   Kentucky Commission on Women.
- 27               (6)   Department of Veterans' Affairs.

- 1 (7) Kentucky Commission on Military Affairs.
- 2 (8) Office of Minority Empowerment.
- 3 (9) Governor's Council on Wellness and Physical Activity.
- 4 (10) Kentucky Communications Network Authority.

5 ➔Section 2. KRS 336.020 is amended to read as follows:

6 (1) The Department of Workplace Standards shall be headed by a commissioner  
7 appointed by the Governor in accordance with KRS 12.040 and shall be divided for  
8 administrative purposes into the Division of Occupational Safety and Health  
9 Compliance, the Division of Occupational Safety and Health Education and  
10 Training, and the Division of Wages and Hours. Each of these divisions shall be  
11 headed by a director appointed by the secretary and approved by the Governor in  
12 accordance with KRS 12.050.

13 (2) The Department of Workers' Claims shall be headed by a commissioner appointed  
14 by the Governor, and confirmed by the Senate in accordance with KRS 342.228.  
15 The department shall be divided for administrative purposes into the Office of  
16 Administrative Law Judges, the Division of Claims Processing, the Division of  
17 Security and Compliance,~~[the Division of Workers' Compensation Funds,]~~ and the  
18 Division of Specialist and Medical Services. The Office of Administrative Law  
19 Judges shall be headed by a chief administrative law judge appointed in accordance  
20 with KRS 342.230. Each division in the department shall be headed by a director  
21 appointed by the secretary and approved by the Governor in accordance with KRS  
22 12.050. The Workers' Compensation Board shall be attached to the Department of  
23 Workers' Claims for administrative purposes only.

24 (3) The Office of General Counsel for the Labor Cabinet, the Office of Administrative  
25 Services, and the Office of Inspector General are attached to the Office of the  
26 Secretary of the Labor Cabinet.

27 (4) (a) The Office of General Counsel for the Labor Cabinet shall be headed by a

1 general counsel appointed by the secretary with approval by the Governor in  
2 accordance with KRS 12.050 and 12.210.

3 (b) The Office of General Counsel shall be divided for administrative purposes  
4 into the Workplace Standards Legal Division and the Workers' Claims Legal  
5 Division.

6 (c) Each legal division shall be headed by a general counsel appointed by the  
7 secretary with approval by the Governor in accordance with KRS 12.050 and  
8 12.210.

9 (5) (a) The Office of Administrative Services shall be headed by an executive  
10 director appointed by the Governor in accordance with KRS 12.040.

11 (b) The Office of Administrative Services shall be divided for administrative  
12 purposes into the Division of Fiscal Management, the Division of Human  
13 Resources Management, the Division of Information Technology and Support  
14 Services, and the Division of Professional Development and Organizational  
15 Management. Each division shall be headed by a director appointed by the  
16 secretary and approved by the Governor in accordance with KRS 12.050.

17 (6) The Office of Inspector General shall be headed by an executive director appointed  
18 by the Governor in accordance with KRS 12.040.

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

20 (1) **The Kentucky Workers' Compensation Funding Commission** ~~There is created the~~  
21 ~~Division of Workers' Compensation Funds in the Department of Workers' Claims~~  
22 ~~which~~ shall be responsible for the administration of the special fund ~~{and the coal~~  
23 ~~workers' pneumoconiosis fund}~~ and the maintenance of records regarding the  
24 payment of claims by **this fund** ~~{these funds. The Division of Workers'~~  
25 ~~Compensation Funds shall have no responsibility for the coal workers'~~  
26 ~~pneumoconiosis fund once the assets and liabilities have been transferred to the~~  
27 ~~Kentucky Employers' Mutual Insurance Authority, which will administer the fund~~



1       ~~pursuant to KRS 342.1243. The Division of Workers' Compensation Funds shall be~~  
2       ~~headed by a director appointed by the secretary of the Labor Cabinet, with the prior~~  
3       ~~written approval of the Governor pursuant to KRS 12.050. The director shall be~~  
4       ~~responsible for overseeing the administration of the funds and the maintenance of~~  
5       ~~records regarding the payment of claims by the funds].~~

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

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

15       ➔Section 4. KRS 342.1223 is amended to read as follows:

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

19       (2) The commission shall:

20       (a) Hold, administer, invest, and reinvest the funds collected pursuant to KRS  
21       342.122 and its other funds separate and apart from all "state funds" or "public  
22       funds," as defined in KRS Chapter 446;

23       (b) Act as a fiduciary, as defined in KRS Chapter 386, in exercising its power  
24       over the funds collected pursuant to KRS 342.122, and may invest association  
25       funds through one (1) or more banks, trust companies, or other financial  
26       institutions with offices in Kentucky in good standing with the Department of  
27       Financial Institutions, in investments described in KRS Chapter 386, except

- 1           that the funding commission may, at its discretion, invest in equity securities;
- 2           (c) Report to the General Assembly at each even-numbered-year regular session
- 3           the actuarial soundness and adequacy of the funding mechanism for the
- 4           special fund and other programs supported by the mechanism, including
- 5           detailed information on the investment of funds and yields thereon;
- 6           (d) Recommend to the General Assembly, not later than October 31 of the year
- 7           prior to each even-numbered-year regular legislative session, changes deemed
- 8           necessary in the level of the assessments imposed in this chapter;
- 9           (e) In conjunction with the Labor Cabinet, submit to the General Assembly, not
- 10          later than October 31 of the year prior to each even-numbered-year regular
- 11          legislative session, a proposed budget for the biennium beginning July 1
- 12          following the even-numbered-year regular session of the General Assembly;
- 13          (f) In conjunction with the Labor Cabinet, provide to the Interim Joint Committee
- 14          on Appropriations and Revenue an annual budget and detailed quarterly
- 15          financial reports;
- 16          (g) Conduct periodic audits, independently or in cooperation with the Labor
- 17          Cabinet or the Department of Revenue, of all entities subject to the
- 18          assessments imposed in this chapter;~~and~~
- 19          (h) Report monthly to the Committees on Appropriations and Revenue and on
- 20          Labor and Industry its monthly expenditures of restricted agency funds and the
- 21          nature of the expenditures; and
- 22          (i) Administer the special fund and maintain records regarding the payment of
- 23                 claims by the special fund.
- 24       (3) The commission shall have all of the powers necessary or convenient to carry out
- 25       and effectuate the purposes for which it was established, including, but not limited
- 26       to, the power:
- 27       (a) To sue and be sued, complain, or defend, in its name;

- 1 (b) To elect, appoint, or hire officers, agents, and employees, and define their  
2 duties and fix their compensation within the limits of its budget approved by  
3 the General Assembly. Notwithstanding any provision of KRS Chapter 18A to  
4 the contrary, officers and employees of the funding commission may be  
5 exempted from the classified service;
- 6 (c) To contract for investment counseling, legal, actuarial, auditing, and other  
7 professional services in accordance with the provisions relating to personal  
8 service contracts contained in KRS Chapter 45A;
- 9 (d) To appoint, hire, and contract with banks, trust companies, and other entities  
10 to serve as depositories and custodians of its investment receipts and other  
11 funds;
- 12 (e) To take any and all other actions consistent with the purposes of the  
13 commission and the provisions of this chapter; and
- 14 (f) To make and promulgate administrative regulations.
- 15 (4) The Kentucky Workers' Compensation Funding Commission may utilize the  
16 investment expertise and advice of the Office of Financial Management within the  
17 Finance and Administration Cabinet. The Kentucky Workers' Compensation  
18 Funding Commission may procure one (1) or more consulting firms and enter into a  
19 personal service contract with such consulting firms to provide investment advisory,  
20 investment counseling, or investment management services. The Office of Financial  
21 Management shall participate in the selection of any firms for investment services  
22 provided, however, the Kentucky Workers' Compensation Funding Commission  
23 shall have the right to make the final decision on the selection of any firms.  
24 Notwithstanding any provisions of this section to the contrary, all contracts for  
25 investment advisory, investment counseling, or investment management services or  
26 for the management of assets shall be subject to KRS Chapter 45A. The fees  
27 charged by financial institutions for managing the investments of the funds of the

1 funding commission shall be paid from the investment earnings of the funds.

2 (5) The commission shall be attached to the Labor Cabinet for administrative purposes  
3 only.

4 ➔Section 5. KRS 342.1243 is amended to read as follows:

5 (1) Notwithstanding any provisions of this chapter or any other provisions to the  
6 contrary, the Kentucky coal workers' pneumoconiosis fund shall have no liability  
7 for income benefits for coal workers' pneumoconiosis claims filed or reopened on or  
8 after July 1, 2017.

9 (2) Notwithstanding any provisions of this chapter or any other provisions to the  
10 contrary, as soon as practically possible after July 1, 2017, all of the assets and  
11 liabilities of the Kentucky coal workers' pneumoconiosis fund shall be transferred  
12 from the Kentucky Workers' Compensation Funding Commission ~~and Division of~~  
13 ~~Workers' Compensation Funds~~ to the Kentucky Employers' Mutual Insurance  
14 Authority through a loss portfolio transfer agreement. The Kentucky Employers'  
15 Mutual Insurance Authority shall have full authority and responsibility over the  
16 Kentucky coal workers' pneumoconiosis fund's claims and shall administer the  
17 claims as permitted pursuant to KRS Chapter 342.

18 (3) Notwithstanding the provisions of KRS 342.1242, the Workers' Compensation  
19 Funding Commission shall impose an assessment at an annual rate of fourteen  
20 percent (14%) upon the amount of workers' compensation premiums received on or  
21 after January 1, 2017, through December 31, 2017, by every insurance carrier  
22 writing workers' compensation insurance in the Commonwealth and by every self-  
23 insured group operating under the provisions of KRS 342.350(4) and KRS Chapter  
24 304, from employers engaged in the severance or processing of coal. Likewise, on  
25 or after January 1, 2017, through December 31, 2017, an assessment at the rate of  
26 fourteen percent (14%) of premium shall be paid by every employer engaged in the  
27 severance or processing of coal who is carrying his or her own risk.

- 1 (4) Notwithstanding the provisions of KRS 342.1242, the Workers' Compensation  
2 Funding Commission shall impose an assessment at an annual rate of fourteen  
3 percent (14%) upon the amount of workers' compensation premiums received on or  
4 after January 1, 2018, through December 31, 2018, by every insurance carrier  
5 writing workers' compensation insurance in the Commonwealth and by every self-  
6 insured group operating under the provisions of KRS 342.350(4) and Chapter 304,  
7 from employers engaged in the severance or processing of coal. Likewise, on or  
8 after January 1, 2018, through December 31, 2018, an assessment at the rate of  
9 fourteen percent (14%) of premium shall be paid by every employer engaged in the  
10 severance or processing of coal who is carrying his or her own risk.
- 11 (5) Notwithstanding the provisions of KRS 342.1242, in addition to the assessments in  
12 subsection (3) and (4) of this section, for the calendar years of 2017 and 2018, an  
13 assessment at the rate of fifteen cents (\$0.15) per ton shall be imposed upon the  
14 total annual amount of tons of coal severed by every entity engaged in the severance  
15 of coal as required pursuant to KRS Chapter 143.
- 16 (6) The assessments imposed by this section shall supersede any assessment imposed  
17 pursuant to KRS 342.1242 for the calendar years of 2017 and 2018. Any amount  
18 paid and collected that exceeds the assessment imposed by this section in calendar  
19 year 2017 shall be reimbursed to the employer or credited to the employer's account  
20 subject to the preference of the employer.
- 21 (7) Assessments pursuant to this section and KRS 342.1242 that are collected by the  
22 Kentucky Worker's Compensation Funding Commission shall be transferred to the  
23 Kentucky Employers' Mutual Insurance Authority.
- 24 (8) When the Kentucky Workers' Compensation Funding Commission and the  
25 Kentucky Employers' Mutual Insurance Authority have determined final audits are  
26 closed and the liability of the fund is fully funded, then the authority for imposing  
27 assessment rates pursuant to this section and KRS 342.1242 shall cease to exist.

1 Any remaining assessments received following the exhaustion of liabilities shall be  
 2 refunded pro rata to all employers who have paid an assessment in the year that  
 3 liabilities are fully funded. When all claim payouts are completed, the Kentucky  
 4 coal workers' pneumoconiosis fund shall be abolished.

5 ➔Section 6. KRS 342.232 is amended to read as follows:

- 6 (1) The boards of directors of the following funds shall make quarterly reports  
 7 according to generally accepted accounting principles of all money received and  
 8 disbursed by the listed funds during each quarter to the Legislative Research  
 9 Commission. The funds which shall be reported are:
- 10 (a) Kentucky individual self-insurance guaranty fund;
  - 11 (b) Kentucky group self-insurance fund; and
  - 12 (c) Kentucky coal employers self-insurance fund.

- 13 (2) The *Kentucky Workers' Compensation Funding Commission and the Kentucky*  
 14 *Employers' Mutual Insurance Authority*~~[director of the Division of Workers'~~  
 15 ~~Compensation Funds]~~ shall make annual~~[quarterly]~~ reports according to generally  
 16 accepted accounting principles of all money received and disbursed by the coal  
 17 workers' pneumoconiosis fund to the Legislative Research Commission.

18 ~~[(3) The Department of Workers' Claims shall make quarterly reports to the Legislative~~  
 19 ~~Research Commission on the status of the provisions of this chapter.]~~

20 ➔Section 7. KRS 342.265 is amended to read as follows:

- 21 (1) If the employee and employer and special fund or any of them reach an agreement  
 22 conforming to the provisions of this chapter in regard to compensation, a  
 23 memorandum of the agreement signed by the parties or their representatives shall be  
 24 filed with the commissioner, and, if approved by an administrative law judge, shall  
 25 be enforceable pursuant to KRS 342.305. Where all parties have not joined in the  
 26 settlement agreement, it shall not be approved unless it is certified that the party not  
 27 participating in the settlement has been served with a copy of the agreement not less

1 than ten (10) days prior to submission of the agreement for approval. This provision  
2 shall not be construed to prevent the voluntary payment of compensation for the  
3 periods and in the amounts prescribed by this chapter, but nothing shall operate as a  
4 final settlement except a memorandum of agreement filed with the commissioner  
5 and approved by the administrative law judge. Upon claims settled after December  
6 12, 1996, the special fund shall have the option of settling its liability for income  
7 benefits on the same terms as those reached between the employee and employer.  
8 Notice of the special fund exercise of the option granted in this subsection shall be  
9 made by letter of the executive director of the Kentucky~~Division of~~ Workers'  
10 Compensation Funding Commission~~Funds~~ mailed to the parties within ten (10)  
11 days of receipt by the executive director of a copy of the agreement.

12 (2) Settlement agreements concluded after July 14, 2000, providing for commuted  
13 lump-sum payment of future income benefits which would otherwise be payable in  
14 amounts greater than one hundred dollars (\$100) per week shall not be approved  
15 unless there is reasonable assurance that the worker will have an adequate source of  
16 income during disability. This subsection is remedial and applies to all pending and  
17 future claims.

18 (3) Upon lump-sum settlement of future periodic payments, the discount rate used in  
19 the calculation of the settlement amount shall be fixed by the commissioner. Before  
20 January 1 of each year commencing in 2001, the commissioner shall fix the  
21 discount rate to be utilized in the succeeding year based at one-half of one percent  
22 (0.5%) below the interest rate paid upon ten (10) year United States Treasury notes  
23 as of August 1 of the preceding year. However, upon lump-sum settlement of future  
24 periodic payments in weekly amounts that are forty dollars (\$40) or less, the  
25 commissioner shall fix the discount rate used in the succeeding year based at the  
26 interest rate paid upon ten (10) year United States Treasury notes as of August 1 of  
27 the preceding year.

1 (4) If the parties have previously filed an agreement which has been approved by the  
 2 administrative law judge, and compensation has been paid or is due in accordance  
 3 therewith and the parties thereafter disagree, either party may invoke the provisions  
 4 of KRS 342.125, which remedy shall be exclusive.

5 (5) An application for resolution of claim shall be held in abeyance during any period  
 6 voluntary payments of income benefits are being made under any benefit sections of  
 7 this chapter to the maximum which the employee's wages shall entitle unless it shall  
 8 be shown that the prosecution of the employee's claim would be prejudiced by  
 9 delay.

10 ➔Section 8. KRS 342.760 is amended to read as follows:

11 (1) ~~The~~~~[There is hereby authorized in the Labor Cabinet an]~~ uninsured employers' fund  
 12 established pursuant to this section prior to the effective date of this Act is hereby  
 13 transferred to the Kentucky Workers' Compensation Funding Commission for the  
 14 purpose of making payments in accordance with the provisions of subsection  
 15 ~~(3)~~~~(4)~~ of this section. The board of directors of the Kentucky Workers'  
 16 Compensation Funding Commission~~[secretary of the Labor Cabinet]~~ shall be the  
 17 custodian of the fund, and all moneys and securities in the fund shall be held in trust  
 18 by the board of directors of the Kentucky Workers' Compensation Funding  
 19 Commission~~[secretary of the Labor Cabinet]~~ and shall not be considered a part of  
 20 the general funds of the state.

21 (2) The board of directors of the Kentucky Workers' Compensation Funding  
 22 Commission~~[secretary of the Labor Cabinet]~~ is authorized to disburse moneys from  
 23 the fund only upon written order of the administrative law judge or the board.

24 ~~(3) [All amounts collected as fines and penalties under this chapter shall be paid into the~~  
 25 ~~uninsured employers' fund.~~

26 ~~(4)~~ The uninsured employers' fund shall be responsible for the payment of  
 27 compensation when there has been default in the payment of compensation due to



1 the failure of an employer to secure payment of compensation as provided by this  
 2 chapter. Such employer shall be liable for payment into the fund of all the amounts  
 3 authorized to be paid therefrom under the authority of this subsection including  
 4 reimbursement of the special fund of all liability apportioned to it and for the  
 5 purposes of enforcing this liability the **Kentucky Workers' Compensation Funding**  
 6 **Commission**~~[Labor Cabinet]~~, for the benefit of the fund, shall be subrogated to all  
 7 the rights of the person receiving such compensation from the fund. This provision  
 8 shall apply to all pending claims upon which a final order has not been entered.

9 ~~(4)~~~~(5)~~ In furtherance of this purpose, the Attorney General shall appoint a member or  
 10 members of his or her staff or special counsel to represent the fund in all  
 11 proceedings brought to enforce claims against or on behalf of the fund. Necessary  
 12 expenses for this purpose including salaries of said staff or special counsel shall be  
 13 borne by the fund.~~[The Labor Cabinet shall be responsible for the administration of~~  
 14 ~~the uninsured employers' fund and shall be charged with the conservation of the~~  
 15 ~~assets of the fund.~~

16 ~~(6) On December 29, 1987, the liabilities of the uninsured employers' fund and its~~  
 17 ~~assets remaining in the State Treasury shall be transferred to the uninsured~~  
 18 ~~employers' fund created within the Labor Cabinet pursuant to this section.]~~

19 ➔Section 9. KRS 342.765 is amended to read as follows:

20 (1) Notwithstanding the provisions of **this**~~[KRS]~~ chapter~~[342]~~ to the contrary, the  
 21 Office of the Attorney General shall be responsible for the administration of the  
 22 uninsured employers' fund and shall be charged with the conservation of the assets  
 23 of the fund. Funds to reimburse the Attorney General's office for expenses incurred  
 24 in litigation and administration in defense of the uninsured employers' fund shall be  
 25 transferred upon request of the Attorney General's office and approval by the **board**  
 26 **of directors of the Kentucky Workers' Compensation Funding**  
 27 **Commission**~~[secretary of the Labor Cabinet].~~

1 (2) The Office of the Attorney General shall report monthly to the Interim Joint  
2 Committee on Appropriations and Revenue, the Interim Joint Committee on  
3 **Economic Development and Workforce Investment**~~[Labor and Industry]~~, and the  
4 commissioner the amount of the agency fund expenditures in each month for the  
5 uninsured employers' fund and the nature of these expenditures. In addition, the  
6 Office of the Attorney General shall report quarterly to the commissioner on the  
7 amount of funds recouped from uninsured employers.

8 ➔Section 10. KRS 393.082 is amended to read as follows:

9 (1) Unclaimed sums delivered to the Kentucky State Treasurer pursuant to KRS  
10 393.080(3) shall be placed in a special expendable trust fund established by the  
11 Kentucky Workers' Compensation Funding Commission. The Kentucky Workers'  
12 Compensation Funding Commission shall establish a separate trust account with  
13 respect to each final determination or order providing for a refund that the Attorney  
14 General determines to have a reasonable relationship to the workers' compensation  
15 liability of a bankrupt employer.

16 (2) The commissioner of the Department of Workers' Claims shall be the administrator  
17 of the resulting trust fund established pursuant to this section. The commissioner or  
18 his or her designee shall be authorized to determine the value of all workers'  
19 compensation claims against the bankrupt employer and to prepare a comprehensive  
20 distribution plan. Eligible claimants may elect to participate in a comprehensive  
21 distribution plan in exchange for the release of all related claims against the  
22 Commonwealth and all of its cabinets, departments, offices, bureaus, agencies,  
23 officers, agents, and employees, with the exception of the special fund in the  
24 **Kentucky Workers' Compensation Funding Commission**~~[Labor Cabinet]~~. A  
25 claimant shall agree as part of a release under this section not to file any future  
26 motions to reopen the named workers' compensation claim or claims, and not to file  
27 new claims with respect to the same injury or occupational disease.

- 1 (3) A comprehensive distribution plan for unclaimed utility refunds placed in a trust  
2 account pursuant to this section shall consist of the full payment of workers'  
3 compensation income benefits for eligible claimants until the fund is exhausted,  
4 subject to the exceptions noted in KRS 393.080 and this section, and may include  
5 lump-sum settlements in addition to biweekly payment plans. An initial distribution  
6 shall be made to eligible claimants after the commissioner of the Department of  
7 Workers' Claims, or the commissioner's designee, has made an initial determination  
8 of the number of eligible claimants, the amount of income benefits due, and the  
9 amount to be retained as a reserve for pending claims. The initial distribution shall  
10 include payment of all past due income benefits, without interest, for eligible  
11 claimants.
- 12 (4) Neither the special fund nor the uninsured employers' fund shall be considered to be  
13 claimants for the purposes of this section. Medical and related benefits shall not be  
14 considered in the valuation of the claims unless the amount available in the trust  
15 fund clearly exceeds the estimated value of income benefits for all claims. If a  
16 workers' compensation surety bond, letter of credit, or other form of security for the  
17 payment of the workers' compensation liabilities of a bankrupt employer has been  
18 collected by the commissioner of the Department of Workers' Claims or the  
19 Workers' Compensation Board for distribution to claimants in a manner to be  
20 determined by court order, it may be assumed in the valuation of the claims in a  
21 comprehensive distribution plan that the security will be distributed by the court on  
22 a pro rata basis and an appropriate deduction may be taken.
- 23 (5) In preparing the valuation of claims for inclusion in a comprehensive distribution  
24 plan, the commissioner or the commissioner's designee shall deduct special fund  
25 payments. Settlement of a workers' compensation claim as part of a comprehensive  
26 distribution plan under this section shall not accelerate the date on which the special  
27 fund's liability becomes due.

- 1 (6) If the bankrupt employer ceased business operations at least three (3) years prior to  
2 establishment of a trust account pursuant to this section, only claimants who file  
3 workers' compensation claims within sixty (60) days of the establishment of the  
4 trust account or before shall be eligible to receive payments from the trust fund.
- 5 (7) All claimants shall cooperate with information requests from the Department of  
6 Workers' Claims concerning prior payments of workers' compensation benefits. The  
7 commissioner of the Department of Workers' Claims or his or her designee may  
8 subpoena witnesses, including present or past managers and officers of the bankrupt  
9 employer, and may conduct evidentiary hearings under oath relating to the past and  
10 present workers' compensation liabilities of the bankrupt employer or information  
11 relevant to unpaid workers' compensation benefits. Administrative subpoenas issued  
12 under the authority of the commissioner of the Department of Workers' Claims for  
13 this purpose may be enforced in the Franklin Circuit Court.
- 14 (8) The Attorney General shall provide representation of the comprehensive  
15 distribution plan as a named defendant in the event the establishment of the trust  
16 fund is challenged.
- 17 (9) The provisions of KRS 393.080(3) or this section shall not be construed to  
18 constitute an admission of the validity of any workers' compensation claims, nor  
19 shall these provisions be interpreted in a manner that would transfer or create  
20 liability on behalf of the commissioner of the Department of Workers' Claims, any  
21 agency, or employee, beyond that expressly set forth in a comprehensive  
22 distribution plan.
- 23 (10) The special fund shall issue trust fund checks in the amounts and to the claimants or  
24 claimants' representatives as directed by the commissioner of the Department of  
25 Workers' Claims.
- 26 (11) The personnel and other costs of administering a trust fund established pursuant to  
27 this section shall be paid out of the investment income of the trust fund.

1 (12) Attorney fees shall be subject to the limitations and maximum amounts for the  
2 payment of attorney's fees established by KRS 342.320, as well as the approval of  
3 the commissioner or his or her designee.

4 (13) If a workers' compensation claimant elects not to participate in a comprehensive  
5 distribution plan proposed by the commissioner of the Department of Workers'  
6 Claims or the commissioner's designee, that claimant shall not be entitled to any  
7 portion of the utility refund for the payment of the workers' compensation benefits.  
8 A claimant shall have sixty (60) days following issuance of a comprehensive  
9 distribution plan in which to make an election to participate or not.

10 ➔Section 11. KRS 342.0015 is amended to read as follows:

11 The substantive provisions of 1996 (1st Extra. Sess.) Ky. Acts ch. 1 shall apply to any  
12 claim arising from an injury or last exposure to the hazards of an occupational disease  
13 occurring on or after December 12, 1996. Procedural provisions of 1996 (1st Extra. Sess.)  
14 Ky. Acts ch. 1 shall apply to all claims irrespective of the date of injury or last exposure,  
15 including, but not exclusively, the mechanisms by which claims are decided and workers  
16 are referred for medical evaluations. The provisions of KRS 342.120(3), 342.125(8),  
17 342.213(2)(e), 342.265, 342.270(3), 342.320, 342.610(3), 342.760(3)~~[(4)]~~, and  
18 342.990(11) are remedial.