

1 AN ACT relating to ethics.

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

3 ➔Section 1. KRS 7.119 is amended to read as follows:

4 (1) Records in the custody of the Legislative Research Commission or the General
5 Assembly shall be available for distribution to the public, or open for inspection by
6 any person.

7 (2) As used in subsection (1) of this section, "records" includes bills and amendments
8 introduced in the Senate or House of Representatives, Senate and House Journals,
9 Acts of the General Assembly, roll call votes, final reports of committees, Kentucky
10 Administrative Regulations, documents showing salary and expenses paid to
11 members of the General Assembly and all employees of the legislative branch,
12 contracts, receipts and work orders for repairs or renovations to legislative offices or
13 facilities, items cataloged in the legislative library, the Legislative Record, ~~and~~
14 ~~informational and educational materials offered by the public information office,~~
15 including legislative videotapes and photographs, calendars, and meeting notices,
16 **any communication made by members of the General Assembly on their publicly**
17 **owned computers or cell phones, and any communication made by members of**
18 **the General Assembly in their official capacities.**

19 (3) Requests for records or other documents in the custody of the Legislative Research
20 Commission or the General Assembly shall be directed to the director of the
21 Legislative Research Commission. Except for KRS 61.880(3), provisions of the
22 Open Records Act, KRS 61.870 to 61.884, shall apply to a request for inspection or
23 copies of documents or other items not set forth in subsection (2) of this section, and
24 except that a request for a review under KRS 61.880 of any determination by the
25 director shall be made to the Legislative Research Commission, which shall issue its
26 decision within thirty (30) days. If the Legislative Research Commission does not
27 issue its decision on a review of the director's determination within thirty (30) days

1 of submission to it of the matter, the director's determination may be appealed to the
2 Franklin Circuit Court within sixty (60) days of its issuance. For purposes of this
3 subsection, any reference to the Attorney General in KRS 61.880 and 61.882 shall
4 be read as the Legislative Research Commission.

5 ➔Section 2. KRS 11A.040 is amended to read as follows:

- 6 (1) A public servant, in order to further his own economic interests, or those of any
7 other person, shall not knowingly disclose or use confidential information acquired
8 in the course of his official duties.
- 9 (2) A public servant shall not knowingly receive, directly or indirectly, any interest or
10 profit arising from the use or loan of public funds in his hands or to be raised
11 through any state agency.
- 12 (3) A public servant shall not knowingly act as a representative or agent for the
13 Commonwealth or any agency in the transaction of any business or regulatory action
14 with himself, or with any business in which he or a member of his family has any
15 interest greater than five percent (5%) of the total value thereof.
- 16 (4) A public servant shall not knowingly himself or through any business in which he
17 owns or controls an interest of more than five percent (5%), or by any other person
18 for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate,
19 or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made,
20 entered into, awarded, or granted by the agency by which he is employed or which
21 he supervises, subject to the provisions of KRS 45A.340. This provision shall not
22 apply to:
- 23 (a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter
24 416 relating to eminent domain; or
- 25 (b) Agreements which may directly or indirectly involve public funds disbursed
26 through entitlement programs; or
- 27 (c) A public servant's spouse or child doing business with any state agency other

1 than the agency by which the public servant is employed or which he
2 supervises; or

3 (d) Purchases from a state agency that are available on the same terms to the
4 general public or that are made at public auction; or

5 (e) Sales of craft items to a state park by interim state employees designated as
6 craftsmen under KRS 148.257.

7 (5) A public servant shall not knowingly accept compensation, other than that provided
8 by law for public servants, for performance of his official duties without the prior
9 approval of the commission.

10 (6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not,
11 within six (6) months of termination of his employment, knowingly by himself or
12 through any business in which he owns or controls an interest of at least five percent
13 (5%), or by any other person for his use or benefit or on his account, undertake,
14 execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract,
15 agreement, lease, sale, or purchase made, entered into, awarded, or granted by the
16 agency by which he was employed. This provision shall not apply to a contract,
17 purchase, or good faith negotiation made under KRS Chapter 416 relating to
18 eminent domain or to agreements that may directly or indirectly involve public funds
19 disbursed through entitlement programs. This provision shall not apply to purchases
20 from a state agency that are available on the same terms to the general public or that
21 are made at public auction. This provision shall not apply to former officers of the
22 Department of Public Advocacy whose continued representation of clients is
23 necessary in order to prevent an adverse effect on the client.

24 (7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g)
25 shall not, within six (6) months following termination of his office or employment,
26 accept employment, compensation, or other economic benefit from any person or
27 business that contracts or does business with, or is regulated by, the state in matters

1 in which he was directly involved during the last thirty-six (36) months of his tenure.

2 This provision shall not prohibit an individual from returning to the same business,
3 firm, occupation, or profession in which he was involved prior to taking office or
4 beginning his term of employment, or for which he received, prior to his state
5 employment, a professional degree or license, provided that, for a period of six (6)
6 months, he personally refrains from working on any matter in which he was directly
7 involved during the last thirty-six (36) months of his tenure in state government.

8 This subsection shall not prohibit the performance of ministerial functions, including
9 but not limited to filing tax returns, filing applications for permits or licenses, or
10 filing incorporation papers, nor shall it prohibit the former officer or public servant
11 from receiving public funds disbursed through entitlement programs.

12 (8) A former public servant shall not act as a lobbyist or lobbyist's principal ~~in matters~~
13 ~~in which he was directly involved during the last thirty-six (36) months of his tenure]~~
14 for a period of one (1) year after the latter of:

15 (a) The date of leaving office or termination of employment; or

16 (b) The date the term of office expires to which the public servant was elected.

17 (9) A former public servant shall not represent a person or business before a state
18 agency in a matter in which the former public servant was directly involved during
19 the last thirty-six (36) months of his tenure, for a period of one (1) year after the
20 latter of:

21 (a) The date of leaving office or termination of employment; or

22 (b) The date the term of office expires to which the public servant was elected.

23 (10) Without the approval of his appointing authority, a public servant shall not accept
24 outside employment from any person or business that does business with or is
25 regulated by the state agency for which the public servant works or which he
26 supervises, unless the outside employer's relationship with the state agency is limited
27 to the receipt of entitlement funds.

1 (a) The appointing authority shall review administrative regulations established
2 under KRS Chapter 11A when deciding whether to approve outside
3 employment for a public servant.

4 (b) The appointing authority shall not approve outside employment for a public
5 servant if the public servant is involved in decision-making or
6 recommendations concerning the person or business from which the public
7 servant seeks outside employment or compensation.

8 (c) The appointing authority, if applicable, shall file quarterly with the Executive
9 Branch Ethics Commission a list of all employees who have been approved for
10 outside employment along with the name of the outside employer of each.

11 (11) *Without the approval of the commission, a public servant shall not undertake,*
12 *execute, hold, bid on, negotiate, or enjoy, in whole or in part, any business*
13 *transaction with a state contractor. The request and approval or denial of the*
14 *request shall be made public within forty-eight (48) hours after the approval or*
15 *denial of the request by the commission.*

16 (12) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to
17 Professional Golfers' Association class A members who teach golf lessons and
18 receive a fee or lesson charge at golf courses owned and operated by the Kentucky
19 Department of Parks. Instruction provided by an employee of the Commonwealth
20 shall only be given while the employee is on his or her own personal time. The
21 commissioner of the Department of Parks shall promulgate administrative
22 regulations to establish guidelines for the process by which Professional Golfers'
23 Association class A members are approved to teach golf lessons at Kentucky
24 Department of Parks-owned golf courses. The exception granted by this subsection
25 is in recognition of the benefits that will accrue to the Kentucky Department of
26 Parks due to increased participation at state-owned golf courses.

27 ➔Section 3. KRS 11A.045 is amended to read as follows:

- 1 (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or
 2 gratuities, including travel expenses, meals, alcoholic beverages, and honoraria,
 3 totaling a value greater than twenty-five dollars (\$25) in a single calendar year from:
 4 (a) Any person or business that does business with, is regulated by, is seeking
 5 grants from, is involved in litigation against, or is lobbying or attempting to
 6 influence the actions of the agency in which the public servant is employed or
 7 which he supervises, or from any group or association which has as its primary
 8 purpose the representation of those persons or businesses. Nothing contained
 9 in this ~~paragraph~~_{subsection} shall prohibit the commission from authorizing
 10 exceptions to this subsection where such exemption would not create an
 11 appearance of impropriety. This ~~paragraph~~_{subsection} shall not apply to:
 12 ~~1. (a)~~ Activities involving sponsorships, naming rights, or similar
 13 honoraria granted under KRS 45A.097; or
 14 ~~2. (b)~~ Individuals traveling on their own while involved in activities
 15 related to KRS 45A.097; or
 16 **(b) Any person or business holding, having an interest in, or seeking a state**
 17 **contract.**
- 18 (2) Nothing in KRS Chapter 11A shall prohibit or restrict the allocation of or
 19 acceptance by a public servant of a ticket for admission to a sporting event if the
 20 ticket or admission is paid for by the public servant at face value or is paid for at face
 21 value by the individual to whom the ticket is allocated.
- 22 (3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a
 23 public servant of the Cabinet for Economic Development or by any other public
 24 servant working directly with the cabinet on an economic incentive package of
 25 anything of economic value as a gift or gratuity, if the gift or gratuity:
 26 (a) Was not solicited by the public servant;
 27 (b) Was accepted by the public servant in the performance of his or her official

1 duties and in compliance with guidelines to be established by the Kentucky
 2 Economic Development Partnership which shall include requirements that all
 3 gifts or gratuities of a reportable value under **paragraph (k) of subsection (4)**
 4 **of Section 4 of this Act**~~[KRS 11A.050(3)(k)]~~ be registered with the Kentucky
 5 Economic Development Partnership and with the Executive Branch Ethics
 6 Commission and that all tangible property with a value in excess of twenty-five
 7 dollars (\$25), other than food and beverages consumed on the premises, shall
 8 be turned over to the Cabinet for Economic Development within thirty (30)
 9 days of receipt. In filing reports of gifts or gratuities with the Executive Branch
 10 Ethics Commission, the Cabinet for Economic Development may delete
 11 information identifying the donors if the cabinet believes identification of the
 12 donors would damage economic development; and

- 13 (c) Was not accepted under circumstances which would create a violation of KRS
 14 Chapter 521.

15 ➔Section 4. KRS 11A.050 is amended to read as follows:

- 16 (1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (g), and each
 17 candidate shall file a statement of financial disclosure with the commission, as
 18 follows:

- 19 (a) Each officer and each public servant listed in KRS 11A.010(9)(a) to (g) who
 20 occupies his position during any portion of a calendar year shall file **three (3)**
 21 **statements**~~[the statement]~~ for that portion of the calendar year he occupied the
 22 position. **These statements shall be filed** on or before April 15, **August 15,**
 23 **and December 15** of the following year, whether or not he remains an officer
 24 or public servant as listed in KRS 11A.010(9)(a) to (g).

- 25 (b) Each officer and public servant listed in KRS 11A.010(9)(a) to (g) who does
 26 not remain an officer or public servant listed in KRS 11A.010(9)(a) to (g) for
 27 the entire calendar year shall file the statement for the portion of the calendar

1 year that the person served as an officer or public servant listed in KRS
2 11A.010(9)(a) to (g). The statement shall be filed with the commission within
3 thirty (30) days after the date the person no longer serves as an officer or
4 public servant listed in KRS 11A.010(9)(a) to (g).

5 (c) A candidate shall file the statement reflecting the previous calendar year with
6 the commission no later than February 15.

7 (2) **Appointees to state boards and commissions who occupy appointed positions for**
8 **any portion of a calendar year shall file a statement of financial disclosure for**
9 **that portion of the calendar year he or she occupied the appointed position with**
10 **the commission on or before April 15 of the following year.**

11 **(3)** The statement of financial disclosure shall be filed on a form prescribed by the
12 commission. The commission shall provide copies of the form upon request without
13 charge.

14 ~~(4)~~~~(3)~~ The statement shall include the following information for the preceding
15 calendar year:

16 (a) Name and entire residential and business address of filer;

17 (b) Title of position or office whereby filing is required;

18 (c) Any other occupations of filer and spouse;

19 (d) Positions held by the filer or his spouse in any business, and the name and
20 address of the business;

21 (e) Names and addresses of all businesses in which the filer, his spouse, or
22 dependent children has or had an interest of ten thousand dollars (\$10,000) at
23 fair market value or five percent (5%) ownership interest or more;

24 (f) The name and address of any source of gross income exceeding one thousand
25 dollars (\$1,000) from any one (1) source to the filer, his spouse, or dependent
26 child, as well as information concerning the nature of the business, and the
27 form of the income;

- 1 (g) Sources of retainers received by the filer or his spouse relating to matters of
 2 the state agency for which the filer works or supervises or of any other entity
 3 of state government for which the filer would serve in a decision-making
 4 capacity, including each source's name and address;
- 5 (h) Any representation or intervention for compensation by the filer or his spouse
 6 for any person or business before a state agency for which the filer works or
 7 supervises or before any entity of state government for which the filer would
 8 serve in a decision-making capacity, including the name and address of the
 9 person or business;
- 10 (i) All positions of a fiduciary nature held by the filer or his spouse in a business,
 11 including the name and address of the business;
- 12 (j) Information, including a street address or location, regarding any real property
 13 in which there is an interest of ten thousand dollars (\$10,000) or more held by
 14 the filer, his spouse, or dependent children;
- 15 (k) Sources, including each source's name and address, of gifts of money or
 16 property with a retail value of more than two hundred dollars (\$200) from any
 17 one (1) source to the filer, his spouse, or dependent children, except those
 18 from a member of the filer's family;~~and~~
- 19 (l) Identity, including an address, of creditors owed more than ten thousand
 20 dollars (\$10,000), except debts arising from the purchase of consumer goods;
 21 and
- 22 (m) All management or other fiduciary roles in any investment entity in which
 23 the Teachers' Retirement System, the Judicial Retirement Plan, or the
 24 Kentucky Retirement Systems has an investment interest.

25 Paragraphs (a) to ~~(m)~~(1) of this subsection shall not require disclosure of specific
 26 dollar amounts or of privileged information.

27 (5) Constitutional officers shall file with the commission a copy of the federal

1 income tax return described in 26 U.S.C. sec. 6103(b)(1) that he or she filed with
 2 the Internal Revenue Service on or before April 15 of the following year.

3 (6) Candidates for constitutional office shall file with the commission a copy of the
 4 federal income tax return described in 26 U.S.C. sec. 6103(b)(1) that he or she
 5 filed with the Internal Revenue Service for the year prior to the election on or
 6 before February 15 of the year of the election.

7 (7) Financial disclosure statements and tax returns submitted to the commission
 8 shall be subject to KRS 61.870 to 61.884.

9 ➔Section 5. KRS 11A.060 is amended to read as follows:

10 (1) The Executive Branch Ethics Commission is hereby established as an independent,
 11 de jure municipal corporation and political subdivision of the Commonwealth of
 12 Kentucky which shall be a public body corporate and politic.

13 (2) The commission shall be composed of five (5) members. The Attorney General, the
 14 Auditor of Public Accounts, the Secretary of State, and the Chief Justice of the
 15 Commonwealth shall each nominate one (1) person to the Governor for the
 16 office of commissioner by October 1 of the year prior to the expiration of the
 17 commissioners' four (4) year terms. These nominees, and a person nominated by
 18 the Governor, shall be appointed by the Governor by December 1 to take effect on
 19 January 1 of the following year.

20 (3) Members of the commission shall be appointed~~[shall serve staggered terms of four~~
 21 ~~(4) years. Of the initial members appointed as provided in this section, one (1)~~
 22 ~~member shall serve a term of one (1) year, one (1) member shall serve a term of two~~
 23 ~~(2) years, one (1) member shall serve a term of three (3) years, and two (2) members~~
 24 ~~shall be appointed for terms of four (4) years. Thereafter, all appointments shall be]~~
 25 ~~for four (4) year terms[years].~~ Any vacancy on the commission shall be filled by
 26 the Governor with a nominee from the same constitutional officer who
 27 nominated the person whose vacancy is being filled.

- 1 (4) The commission shall elect from its membership a chairman and vice chairman. In
 2 the absence of the chairman or in the event of a vacancy in that position, the vice
 3 chairman shall serve as chairman.
- 4 (5) A member of the commission shall receive one hundred dollars (\$100) per day for
 5 attending meetings and shall be reimbursed for actual and necessary expenses
 6 incurred in the performance of duties.
- 7 (6) All members shall be registered voters of the state.
- 8 (7) Members of the commission shall be removed by the commission~~[Governor]~~ for
 9 cause only, including substantial neglect of duty and inability to discharge the
 10 powers and duties of office. **Members shall be removed only after:**
 11 **(a) A hearing before the commission with the opportunity for counsel;**
 12 **(b) Findings of fact; and**
 13 **(c) A majority vote of the remaining members of the commission**
- 14 (8) A quorum shall consist of three (3) or more members. An affirmative vote of three
 15 (3) or more members shall be necessary for commission action.
- 16 (9) The commission shall meet at the call of the chairman or a majority of its members.
- 17 (10) The commission shall be attached to the Finance and Administration Cabinet for
 18 administrative purposes only.
- 19 ➔Section 6. KRS 11A.070 is amended to read as follows:
- 20 **(1) The commission shall**~~[may]~~ **employ an executive director** **who shall serve a term of**
 21 **five (5) years unless sooner removed by the commission. The executive director**
 22 **shall have at least eight (8) years' experience in law enforcement or shall have**
 23 **practiced law for at least eight (8) years. The director may be reemployed for one**
 24 **(1) additional five (5) year term of office.**
- 25 **(2) The executive director shall be sworn into office using the oath set out under**
 26 **Section 228 of the Constitution of Kentucky.**
- 27 **(3) The commission shall employ at least four (4) full-time investigators** and any

1 other employees~~[-, agents, and consultants]~~ it considers necessary, and may prescribe
 2 their duties, fix their compensation, and provide for reimbursement of their expenses
 3 within the amount available therefor by appropriation. **All employees shall be**
 4 **independent employees of the commission and not subject to KRS Chapter**
 5 **18A**~~[The commission may also engage outside professional counsel it considers~~
 6 ~~necessary].~~ The commission and its staff may also make use of the services and
 7 facilities of the office of the Attorney General or of any other state agency.

8 ➔Section 7. KRS 11A.080 is amended to read as follows:

- 9 (1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its
 10 own motion, the commission shall conduct a preliminary investigation of any
 11 alleged violation of this chapter.
- 12 (b) The preliminary investigation shall begin not later than ten (10) days after the
 13 next commission meeting following the receipt of the sworn complaint, or, if
 14 the investigation is initiated by the commission's own motion, not later than ten
 15 (10) days after the date of the adoption of the motion.
- 16 (c) Within ten (10) days of the commencement of the preliminary investigation,
 17 the commission shall forward a copy of the complaint, if one has been filed, or
 18 a statement of possible violations being investigated, and a general statement
 19 of the applicable law to the person alleged to have committed a violation.
- 20 (2) All commission proceedings and records relating to a preliminary investigation shall
 21 be confidential until a final determination is made by the commission, except:
- 22 (a) The commission may turn over to the Attorney General, the United States
 23 Attorney, or the Commonwealth's attorney of the jurisdiction in which the
 24 offense allegedly occurred, evidence which may be used in criminal
 25 proceedings or, at its discretion, may at any time turn over to the Personnel
 26 Board, the Auditor of Public Accounts, or any other agency with jurisdiction
 27 to review, audit, or investigate the alleged offense, evidence which may be

1 used by those agencies for investigative purposes. *The commission shall not*
2 *turn over information relating to the investigation to any other agencies,*
3 *contractors, or persons;*

4 (b) If the alleged violator publicly discloses the existence of a preliminary
5 investigation, the commission may publicly confirm the existence of the inquiry
6 and, in its discretion, make public any documents which were issued to either
7 party;

8 (c) If the matter being investigated was referred to the commission from another
9 state agency, the commission may inform the referring state agency of the
10 status of any preliminary investigation and of any action taken on the matter.

11 (3) If the commission determines in the preliminary investigation that the facts are not
12 sufficient to constitute a violation of this chapter, the commission shall immediately
13 terminate the investigation and notify in writing the complainant, if any, and the
14 person alleged to have committed a violation. The commission may confidentially
15 inform the alleged violator of potential violations and provide information to ensure
16 future compliance with the law. If the alleged violator publicly discloses the
17 existence of such action by the commission, the commission may confirm the
18 existence of the resolution and, in its discretion, make public any documents which
19 were issued to the alleged violator.

20 (4) If the commission, during the course of the preliminary investigation, finds probable
21 cause to believe that a violation of this chapter has occurred, the commission may,
22 upon majority vote:

23 (a) Due to mitigating circumstances such as lack of significant economic
24 advantage or gain by the alleged violator, lack of significant economic loss to
25 the state, or lack of significant impact on public confidence in government, in
26 writing, confidentially reprimand the alleged violator for potential violations of
27 the law and provide a copy of the reprimand to the alleged violator's

1 appointing authority, if any. If the alleged violator publicly discloses the
 2 existence of such an action, the commission may confirm the existence of the
 3 action and, in its discretion, make public any documents which were issued to
 4 the alleged violator; or

5 (b) Initiate an administrative proceeding to determine whether there has been a
 6 violation.

7 **(5) No public statements or opinions concerning an investigation shall be made prior**
 8 **to the completion of an investigation by the commissioners, the executive**
 9 **director, or the employees of the commission.**

10 ➔Section 8. KRS 11A.110 is amended to read as follows:

11 The commission shall perform the following additional duties:

12 (1) On its own initiative or upon a signed request in writing, issue and publish advisory
 13 opinions on the requirements of this chapter for those who wish to use the opinion
 14 to guide their own conduct. If requested in writing by the person seeking the
 15 advisory opinion, the commission shall not release that person's name;

16 (2) Provide a continuing program of education, assistance, and information to public
 17 servants, including, but not limited to, publishing and making available to the
 18 persons subject to this chapter and the public explanatory information concerning
 19 this chapter, the duties imposed by it, and the means of enforcement;

20 (3) Promulgate administrative regulations in accordance with KRS Chapter 13A to
 21 implement this chapter;

22 (4) Prescribe forms for statements required by this chapter and furnish the forms to
 23 persons required to file the statements. The forms shall be adopted as administrative
 24 regulations or adopted by reference in an administrative regulation;

25 (5) Prepare and publish a manual of guidelines setting forth uniform methods of
 26 reporting for use by persons required to file under this chapter;

27 (6) Accept and file any information voluntarily supplied that exceeds the requirements of

- 1 this chapter;
- 2 (7) Preserve the disclosure statements filed with it for four (4) years from the date of
3 receipt;
- 4 (8) Make statements and reports filed with the commission available for public
5 inspection and copying pursuant to KRS 61.870 to KRS 61.884 (Kentucky Open
6 Records Law);
- 7 (9) Compile and maintain a current index of all statements filed with the commission to
8 facilitate public access to the reports and statements;
- 9 (10) Prepare and publish reports as it may deem appropriate;
- 10 (11) Audit statements and reports filed with the commission;
- 11 (12) Make recommendations for legislation relating to governmental ethics and other
12 matters included in this chapter as the commission deems desirable;~~and~~
- 13 (13) Prepare a biennial written report, no later than December 1 of each odd-numbered
14 year, to the Legislative Research Commission, the Governor, and the public on the
15 activities of the commission in the preceding two (2) fiscal years. The report shall
16 contain the names and duties of each individual employed by the commission and a
17 summary of commission determinations and advisory opinions. The commission shall
18 prevent disclosure of the identity of a person involved in decisions or advisory
19 opinions. The report may contain other information on matters within the
20 commission's jurisdiction and recommendations for legislation as the commission
21 deems desirable; and
- 22 **(14) Create and maintain an ethics tip line. The tip line shall be operated twenty-four**
23 **(24) hours a day, three hundred sixty-five (365) days a year. It shall be used to**
24 **receive information and inquiries about ethical concerns in the executive branch**
25 **of state government. No other state agency shall create or maintain an ethics tip**
26 **line.**
- 27 ➔Section 9. KRS 11A.990 is amended to read as follows:

- 1 (1) Any person who violates KRS 11A.040 shall be guilty of a Class D felony. In
2 addition:
- 3 (a) The judgment of conviction for a violation of KRS 11A.040(2) shall recite that
4 the offender is disqualified to hold office thereafter; and
- 5 (b) Any person who violates KRS 11A.040(1) to (5) shall be judged to have
6 forfeited any employment, or constitutional or statutory office he holds,
7 provisions of KRS Chapter 18A to the contrary notwithstanding.
- 8 (2) Any officer, public servant, board or commission appointee, or candidate required
9 to file a statement of financial disclosure or a copy of their tax returns under KRS
10 11A.050 who knowingly withholds information from, or intentionally misleads,
11 the commission, or does not file the statement or a copy of their tax return by a
12 date specified in that section shall:
- 13 (a) Be guilty of a Class D felony;
- 14 (b) Be disqualified to hold public office; and
- 15 (c) Forfeit his or her state employment or appointment~~[have his salary withheld~~
16 ~~from the first day of noncompliance until he shall have completed the action~~
17 ~~required by law. The amount withheld shall be deducted from his overall pay~~
18 ~~and allowances and shall be recoverable upon the filing of the statement of~~
19 ~~financial disclosure. The commission may grant a reasonable extension of time~~
20 ~~for filing a statement of financial disclosure for good cause shown].~~
- 21 (3) Any person who maliciously files with the commission a false charge of misconduct
22 on the part of any public servant or other person shall be fined not to exceed five
23 thousand dollars (\$5,000), or imprisoned in a county jail for a term not to exceed
24 one (1) year, or both.
- 25 (4) Prosecution for violation of any provision of KRS 11A.040 shall not be commenced
26 after four (4) years have elapsed from the date of the violation. Any executive
27 agency lobbyist, employer, or real party in interest who violates any provision in

1 KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed
2 five thousand dollars (\$5,000). For the second and each subsequent violation, he
3 shall be guilty of a Class D felony.

4 (5) Any executive agency lobbyist, employer, or real party in interest who fails to file the
5 initial registration statement or updated registration statement required by KRS
6 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely
7 manner, may be fined by the commission an amount not to exceed one hundred
8 dollars (\$100) per day, up to a maximum total fine of one thousand dollars (\$1,000).

9 (6) Any executive agency lobbyist, employer, or real party in interest who intentionally
10 fails to register, or who intentionally files an initial registration statement or updated
11 registration statement required by KRS 11A.211 or 11A.216 which he knows to
12 contain false information or to omit required information shall be guilty of a Class D
13 felony.

14 (7) An executive agency lobbyist, employer, or real party in interest who files a false
15 statement of expenditures or details of a financial transaction under KRS 11A.221 or
16 11A.226 is liable in a civil action to any official or employee who sustains damage as
17 a result of the filing or publication of the statement.

18 (8) Violation of KRS 11A.236 is a Class D felony.

19 ➔Section 10. KRS 12.028 is amended to read as follows:

20 (1) Recognizing the necessity for grouping related functions of organizational units and
21 administrative bodies in order to promote greater economy, efficiency and improved
22 administration, the Governor, the Kentucky Economic Development Partnership as
23 created in KRS 154.10-010, and other elected state executive officers may propose
24 to the General Assembly, for its approval, changes in the state government
25 organizational structure which may include the creation, alteration or abolition of
26 any organizational unit or administrative body and the transfer of functions,
27 personnel, funds, equipment, facilities, and records from one (1) organizational unit

- 1 or administrative body to another.
- 2 (2) Recognizing that changes in the state government organizational structure may need
3 to be made as rapidly as possible to achieve greater economy, efficiency, and
4 improved administration as the needs of government dictate, the Governor, the
5 Kentucky Economic Development Partnership as created in KRS 154.10-010, and
6 other elected state executive officers may, between sessions of the General
7 Assembly, temporarily effect a change in the state government organizational
8 structure as described in subsection (1) of this section if such temporary
9 reorganization plan is first reviewed by the interim joint legislative committee with
10 appropriate jurisdiction. The Governor may not effect a temporary reorganization
11 plan under this subsection that would change the organizational structure of an
12 organizational unit or administrative body headed by the Kentucky Economic
13 Development Partnership as created in KRS 154.10-010,~~[-or]~~ another elected state
14 executive officer unless requested in writing by that officer, or the Executive
15 Branch Ethics Commission. An elected state executive officer other than the
16 Governor may only change the organizational structure of an organizational unit or
17 administrative body that he heads.
- 18 (3) Any reorganization proposed under subsection (1) or (2) of this section shall be set
19 forth in a reorganization plan which shall be filed with the Legislative Research
20 Commission. The plan shall include:
- 21 (a) An explanation of each proposed change, including the need for the change;
- 22 (b) An estimate of any reduction or increase in expenditures, itemized as far as
23 practicable, which the promulgating officer expects will result from the
24 reorganization;
- 25 (c) A description of any improvements in the management, delivery of state
26 services, and efficiency of state government operations which the promulgating
27 officer expects will be realized as a result of the reorganization; and

- 1 (d) Specification of the effects of the reorganization on the budget and personnel
2 of each affected organizational unit or administrative body, including but not
3 limited to the amount of funds and the number of employees that will be
4 transferred from one (1) organizational unit or administrative body to another,
5 any reductions in the state workforce resulting from the reorganization, and
6 the methods to be utilized to achieve such reductions.
- 7 (4) When a proposed reorganization plan is submitted for review under subsection (2) of
8 this section the presiding co-chairman of the Legislative Research Commission shall
9 determine which interim joint legislative committee has appropriate jurisdiction and
10 shall refer the plan to such committee within ten (10) days after the director of the
11 Legislative Research Commission receives the proposal. The interim joint legislative
12 committee to which it is referred shall review the plan to determine whether the plan
13 can reasonably be expected to achieve greater economy, efficiency or improved
14 administration in state government. The committee shall report its findings to the
15 Legislative Research Commission. The committee shall review and report on the
16 plan within sixty (60) days after it is filed with the Legislative Research Commission.
17 If the committee does not report on a proposed plan within the time specified in this
18 subsection, the plan shall be considered reviewed by the interim joint legislative
19 committee with appropriate jurisdiction.
- 20 (5) A temporary reorganization effected under subsections (2) to (4) of this section shall
21 be terminated ninety (90) days after sine die adjournment of the next regular session
22 of the General Assembly unless otherwise specified by the General Assembly. The
23 Governor, the Kentucky Economic Development Partnership as created in KRS
24 154.10-010, or other officer who promulgated a temporary reorganization plan
25 under this section shall recommend legislation to the General Assembly to confirm
26 the temporary reorganization plan. The subject matter of each executive order
27 relating to reorganization shall be presented to the General Assembly in a separate

1 bill. If the General Assembly fails to enact the temporary reorganization plan or an
2 alternative to such plan, the organizational structure that existed immediately prior
3 to the implementation of the temporary plan shall be reinstated upon the termination
4 of the temporary plan. If the General Assembly fails to enact a temporary
5 reorganization plan, the Governor, the Kentucky Economic Development
6 Partnership as created in KRS 154.10-010, and other elected state executive officers
7 shall not effect the plan prior to the next succeeding session of the General
8 Assembly.

9 (6) The Legislative Research Commission or the legislative program review and
10 investigations committee may monitor the implementation of any reorganization plan
11 to determine the extent to which the anticipated improvements in economy,
12 efficiency, or administration have been realized as a result of the reorganization and
13 shall report its findings to the General Assembly.

14 (7) Funds transferred due to reorganization shall be maintained in separately designated
15 accounts. Any excess funds resulting from a reorganization shall lapse to the general
16 fund surplus account.

17 ➔Section 11. KRS 18A.005 is amended to read as follows:

18 As used in this chapter, unless the context indicates otherwise:

19 (1) "Appointing authority" means the agency head or any person whom he has
20 authorized by law to designate to act on behalf of the agency with respect to
21 employee appointments, position establishments, payroll documents, register
22 requests, waiver requests, requests for certification, or other position actions. Such
23 designation shall be in writing and signed by both the agency head and his designee.
24 Prior to the exercise of appointing authority, such designation shall be filed with the
25 secretary;

26 (2) "Base salary or wages" means the compensation to which an employee is entitled
27 under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and

- 1 18A.110. Base salary or wages shall be adjusted as provided under the provisions of
2 KRS 18A.355 and 48.130;
- 3 (3) "Board" means the Personnel Board created by KRS 18A.045;
- 4 (4) "Career employee" shall mean a state employee with sixteen (16) or more years of
5 permanent full-time state service, or the part-time employment equivalent of at least
6 sixteen (16) years of full-time state service. The service may have been in the
7 classified service, the unclassified service, or a combination thereof;
- 8 (5) "Certification" means the referral of the name of one (1) or more qualified
9 prospective employees by the secretary on request of an appointing officer for
10 consideration in filling a position in the classified service;
- 11 (6) "Class" means a group of positions sufficiently similar as to duties performed, scope
12 of discretion and responsibility, minimum requirements of training, experience, or
13 skill, and such other characteristics that the same title, the same tests of fitness, and
14 the same schedule of compensation have been or may be applied to each position in
15 the group;
- 16 (7) "Classified employee" means an employee appointed to a position in the classified
17 service whose appointment and continued employment are subject to the classified
18 service provisions of this chapter;
- 19 (8) "Classified position" means a position in the executive branch of state government
20 that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115,
21 KRS Chapter 151B, or any other provision of law;
- 22 (9) "Classified service" includes all the employment subject to the terms of this chapter
23 except for those positions expressly cited in KRS 18A.115; a "classified position" is
24 a position in the classified service;
- 25 (10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS
26 18A.015;
- 27 (11) "Demotion" means a change in the rank of an employee from a position in one (1)

- 1 class to a position in another class having a lower minimum salary range and less
2 discretion or responsibility;
- 3 (12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the
4 context indicates otherwise;
- 5 (13) "Eligible" refers to a person who has made a passing score on any examination
6 required under KRS 18A.010 to 18A.200 or who has qualified to be placed on a
7 register;
- 8 (14) "Employee" means a person regularly appointed to a position in the state service for
9 which he is compensated on a full-time, part-time, or interim basis;
- 10 (15) "Federally funded time-limited employee" means an employee in the unclassified
11 service, appointed to a position that is funded one hundred percent (100%) by a
12 federal grant or grants. An employee appointed to a federally funded time-limited
13 position shall be required to meet the minimum requirements for the classification in
14 which he or she is hired and, subject to the provisions of KRS 18A.113, shall serve
15 at the pleasure of the appointing authority during a period of time that shall not
16 exceed the life of the federal grant that funds the position. A federally funded time-
17 limited employee who has been aggrieved by notice of disciplinary action or
18 termination, other than an action based on expiration of the federal grant funding,
19 may petition the appointing authority of the agency for the opportunity to be heard
20 by the appointing authority or his designee prior to the effective date of the
21 disciplinary action or termination. The decision of the appointing authority shall be
22 final except as provided by KRS 18A.095(14) and 18A.140. A federally funded
23 time-limited employee shall not have the right of appeal to the Personnel Board
24 except as provided by KRS 18A.095(14) and 18A.140;
- 25 (16) "Federally funded position" means a full-time or a part-time position in which the
26 unclassified employee is eligible for benefits at the same level as a classified
27 employee in a permanent position;

- 1 (17) "Full-time employee" means an employee in a full-time position;
- 2 (18) "Full-time position" means a position, other than an interim position, requiring an
3 employee to work at least thirty-seven and one-half (37.5) hours in a work week,
4 except for the following:
- 5 (a) Positions in the state parks, where the work assigned is dependent upon
6 fluctuations in tourism, may be assigned work hours from twenty-five (25)
7 hours per week during the off seasons and remain in full-time positions; and
- 8 (b) Positions in health care facilities, which regularly involve three (3) consecutive
9 days of twelve (12) hour shifts to cover weekends, shall be considered full-
10 time;
- 11 (19) "Initial probation" means the period of service following initial appointment to any
12 position under KRS 18A.010 to 18A.200 which requires special observation and
13 evaluation of an employee's work and which must be passed successfully before
14 status may be conferred as provided in KRS 18A.110 and by the provisions of this
15 chapter. If the appointee is granted leave in excess of twenty (20) consecutive work
16 days during this period, his initial probation shall be extended for the same length of
17 time as the granted leave to cover such absence;
- 18 (20) "Interim employee" means an unclassified employee without status who has been
19 appointed to an interim position that shall be less than nine (9) months duration;
- 20 (21) "Interim position" means a position established to address a one-time or recurring
21 need of less than nine (9) months duration and exempt from the classified service
22 under KRS 18A.115;
- 23 (22) "Part-time employee" means an employee in a part-time position;
- 24 (23) "Part-time position" means a position, other than an interim position, requiring an
25 employee to work less than one hundred (100) hours per month;
- 26 (24) "Penalization" means demotion, dismissal, suspension, fines, and other disciplinary
27 actions; involuntary transfers; salary adjustments; any action that increases or

1 diminishes the level, rank, discretion, or responsibility of an employee without
2 proper cause or authority, including a reclassification or reallocation to a lower
3 grade or rate of pay; and the abridgment or denial of other rights granted to state
4 employees;

5 (25) "Position" means an office or employment in an agency (whether part-time, full-time,
6 or interim, occupied, or vacant) involving duties requiring the services of one (1)
7 person;

8 (26) "Promotion" means a change of rank of an employee from a position in one (1) class
9 to a position in another class having a higher minimum salary or carrying a greater
10 scope of discretion or responsibility;

11 (27) "Promotional probation" means the period of service, consistent with the length of
12 the initial probationary period, following the promotion of an employee with status
13 which must be successfully completed in order for the employee to retain the
14 position to which he has been promoted. If the employee is granted leave in excess
15 of twenty (20) consecutive work days during this period, his promotional probation
16 shall be extended for the same length of time as the granted leave to cover such
17 absence;

18 (28) "Qualifying" means the selection method type which results when the knowledge,
19 skills, and abilities necessary for a job classification cannot be accurately measured
20 by written examination;

21 (29) "Reallocation" means the correction of the classification of an existing position by
22 placement of the position into the classification that is appropriate for the duties the
23 employee has been and shall continue to perform;

24 (30) "Reclassification" shall mean the change in the classification of an employee when a
25 material and permanent change in the duties or responsibilities of that employee has
26 been assigned in writing by the appointing authority;

27 (31) "Reemployment" shall mean the rehiring of an employee with status who has been

1 laid-off;

2 (32) "Reemployment register" means the separate list of names of persons who have been
3 separated from state service by reason of lay-off. Reemployment registers shall be
4 used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

5 (33) "Register" means any official list of eligibles for a particular class and, except as
6 provided in this chapter, placed in rank order according to the examination scores
7 maintained for use in making original appointments or promotions to positions in the
8 classified service;

9 (34) "Reinstatement" means the privilege of restoration of an employee who has resigned
10 in good standing at the option of the appointing authority, or who has been ordered
11 reinstated by the board or a court to a position in his former class, or to a position of
12 like status and pay;

13 (35) **"Relative" means a child, spouse, parent, or sibling.**

14 **(36)** "Reversion" means either the returning of a status employee to his or her last
15 position held in the classified service, if vacant, or the returning of a status employee
16 to a vacant position in the same or similar job classification as his or her last position
17 held in the classified service. Reversion occurs after a career employee is terminated
18 other than for cause from the unclassified service or after a status employee fails to
19 successfully complete promotional probation. Reversion after unsuccessful
20 completion of promotional probation, or in the case of a career employee after
21 termination from the unclassified service, may only be appealed to the Personnel
22 Board under KRS 18A.095(12);

23 ~~(37)~~ "Seniority" means the total number of months of state service;

24 ~~(38)~~ "Status" means the acquisition of tenure with all rights and privileges granted
25 by the provisions of this chapter after satisfactory completion of the initial
26 probationary period by an employee in the classified service; and

27 ~~(39)~~ "Transfer" means a movement of any employee from one (1) position to

1 another of the same grade having the same salary ranges, the same level of
2 responsibility within the classified service, and the same salary received immediately
3 prior to transfer.

4 ➔Section 12. KRS 18A.155 is amended to read as follows:

5 (1) The secretary shall prepare and submit proposed administrative regulations to the
6 Governor for employees in unclassified positions enumerated in KRS 18A.115(1)(g),
7 (h), (i), (j), (k), (p), (t), and (u). Such administrative regulations shall become
8 effective after approval by the Governor and promulgation in accordance with KRS
9 Chapters 12 and 13A. The administrative regulations shall provide:

10 (a) For the preparation, maintenance, and revision of a position classification plan
11 for all aforementioned positions in the unclassified service, based upon
12 similarity of duties performed and responsibilities assumed, so that the same
13 qualifications may reasonably be required for and the same schedule of pay
14 may be equitably applied to all positions in the same class. After such
15 classification plan has been approved by the Governor, the secretary shall
16 allocate the positions of every employee in the unclassified service to one (1)
17 of the classes of the plan. Any employee affected by the allocation of a position
18 to a class shall, after filing with the secretary a written request for
19 reconsideration thereof in such manner and form as the secretary may
20 prescribe, be given a reasonable opportunity to be heard thereon by the
21 secretary;

22 (b) For a pay plan for all aforementioned employees in the unclassified service,
23 after consultation with appointing authorities and the state budget director, and
24 taking into account such factors as:

- 25 1. The relative levels of duties and responsibilities of various classes of
26 positions;
- 27 2. Rates paid for comparable positions elsewhere; and

1 3. The state's financial resources.

2 Such pay plan shall become effective only after it has been approved by the
3 Governor after submission to him by the secretary. Amendments to the pay
4 plan may be made in the same manner. Each employee shall be paid at one (1)
5 of the rates set forth in the pay plan for the position in which he is employed;

6 (c) For transfer from a position in one (1) department to a similar position in
7 another department involving similar qualifications, duties, responsibilities, and
8 salary ranges;

9 (d) For annual, sick, and special leaves of absence, with or without pay, or
10 reduced pay, after approval by the Governor as provided in subsection (1) of
11 this section;

12 (e) For the development and operation of programs to improve the work
13 effectiveness and morale of employees in the unclassified service, including
14 training, safety, health, welfare, counseling, recreation, and employee relations;
15 and

16 (f) For such other rules and administrative regulations not inconsistent with KRS
17 18A.005 to 18A.200, as may be proper and necessary for its enforcement.

18 (2) Nothing herein shall be construed to preclude the optional use of administrative
19 regulations promulgated under this section on behalf of employees enumerated in
20 KRS 18A.115(1)(a), (b), (d), (e), (p), (u), and (w) and on behalf of members of state
21 boards and commissions who work on a full-time, salaried basis.

22 (3) Months of service earned as a contract employee of the Kentucky Department of
23 Education shall be recognized and credited as service credit for calculating years of
24 service in any public agency position held subsequent to the employment by
25 contract. The provisions of this subsection are retroactive for employees hired in a
26 public agency position on or after January 1, 1997.

27 **(4) No relative of a sitting state legislator or cabinet secretary shall be hired in the**

1 **unclassified service.**

2 ➔ Section 13. KRS 45A.095 is amended to read as follows:

3 (1) For purposes of this section:

4 (a) "Emergency condition" means a situation which creates a threat or impending
5 threat to public health, welfare, or safety such as may arise by reason of fires,
6 floods, tornadoes, other natural or man-caused disasters, epidemics, riots,
7 enemy attack, sabotage, explosion, power failure, energy shortages,
8 transportation emergencies, equipment failures, state or federal legislative
9 mandates, or similar events. The existence of the emergency condition creates
10 an immediate and serious need for services, construction, or items of tangible
11 personal property that cannot be met through normal procurement methods
12 and the lack of which would seriously threaten the functioning of government,
13 the preservation or protection of property, or the health or safety of any
14 person;

15 **(b) "Business relationship" means a common interest in a corporation,**
16 **partnership, sole proprietorship, firm, enterprise, franchise, association,**
17 **organization, holding company, joint stock company, receivership, trust,**
18 **professional service corporation, or any legal entity through which business**
19 **is conducted for profit;**

20 **(c) "Family" means children, spouse, parents, or siblings;** and

21 **(d)**~~(b)~~ "Sole source" means a situation in which there is only one (1) known
22 capable supplier of a commodity or service, occasioned by the unique nature of
23 the requirement, the supplier, or market conditions.

24 (2) A contract may be made by noncompetitive negotiation only:

25 (a) For sole source purchases;

26 (b) When competition is not feasible, as determined by the purchasing officer in
27 writing prior to award, under administrative regulations promulgated by the

- 1 secretary of the Finance and Administration Cabinet or the governing boards of
2 universities operating under KRS Chapter 164A;
- 3 (c) When emergency conditions exist; or
4 (d) For sponsorships, naming rights, or other advertising or similar considerations
5 for which competition is not feasible.
- 6 (3) Insofar as it is practical, no fewer than three (3) suppliers shall be solicited to submit
7 written or oral quotations whenever it is determined that competitive sealed bidding
8 is not feasible. Award shall be made to the supplier offering the best value. The
9 names of the suppliers submitting quotations and the date and amount of each
10 quotation shall be placed in the procurement file and maintained as a public record.
- 11 (4) Competitive bids may not be required:
- 12 (a) For contractual services where no competition exists, such as telephone
13 service, electrical energy, and other public utility services;
- 14 (b) Where rates are fixed by law or ordinance;
- 15 (c) For library books;
- 16 (d) For commercial items that are purchased for resale;
- 17 (e) For interests in real property;
- 18 (f) For visiting speakers, professors, expert witnesses, and performing artists;
- 19 (g) For personal service contracts executed pursuant to KRS 45A.690 to
20 45A.725; and
- 21 (h) For agricultural products in accordance with KRS 45A.645.
- 22 (5) The chief procurement officer, the head of a using agency, or a person authorized in
23 writing as the designee of either officer may make or authorize others to make
24 emergency procurements when an emergency condition exists.
- 25 (6) The Finance and Administration Cabinet may negotiate directly for the purchase of
26 contractual services, supplies, materials, or equipment in bona fide emergencies
27 regardless of estimated costs. The existence of the emergency shall be fully

1 explained, in writing, by the head of the agency for which the purchase is to be
 2 made. The explanation shall be approved by the secretary of the Finance and
 3 Administration Cabinet and shall include the name of the vendor receiving the
 4 contract along with any other price quotations and a written determination for
 5 selection of the vendor receiving the contract. This information shall be filed with the
 6 record of all such purchases and made available to the public. Where practical,
 7 standard specifications shall be followed in making emergency purchases. In any
 8 event, every effort should be made to effect a competitively established price for
 9 purchases made by the state.

10 **(7) No contract shall be made under this section with:**

11 **(a) A vendor having a business relationship with the Governor, Lieutenant**
 12 **Governor, or a member of the Governor's Executive Cabinet;**

13 **(b) A vendor owned, in whole or in part, by a relative of the Governor,**
 14 **Lieutenant Governor, or a member of the Governor's Executive Cabinet.**

15 ➔Section 14. KRS 45A.715 is amended to read as follows:

16 The Department of Revenue shall not enter into any personal service contract:

17 **(1)** For the collection of revenue for the state or for the prosecution of any action or
 18 proceeding for the collection of delinquent taxes owed by a resident and the
 19 assessment of omitted property owned by a resident; **or**

20 **(2) That gives the Governor the authority to set out a bonus payment structure for**
 21 **the collection of taxes.**

22 ➔Section 15. Sections 5 and 6 of this Act shall take effect January 1, 2019. At
 23 that time the former Executive Branch Ethics Commission shall cease to exist and
 24 employees of the Executive Branch Ethics Commission shall become employees
 25 independent of KRS Chapter 18A.

26 ➔Section 16. The Attorney General, the Auditor of Public Accounts, the
 27 Secretary of State, and the Chief Justice of the Commonwealth shall submit their nominees

1 to the commission created under Section 5 of this Act to the Governor by October 1,
2 2018. The Governor shall appoint the commissioners on or before December 1, 2018 to
3 take effect January 1, 2019.