

1 AN ACT relating to ethics and declaring an emergency.

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

3 ➔Section 1. KRS 6.080 is amended to read as follows:

4 Any person who, after being lawfully summoned by the General Assembly, either house  
5 or a committee of either, refuses to attend as a witness, or bring any paper proper to be  
6 used as evidence or who, being present, refuses to testify concerning any matter which  
7 may be a proper subject of inquiry, and any person who offers or gives a bribe to a  
8 member of the General Assembly, or attempts, by other corrupt means, to influence a  
9 member to cast or withhold his vote, shall, on conviction as provided by KRS 6.090 to  
10 6.131, be fined not more than fifteen~~one~~ thousand dollars (\$15,000)~~(\$1,000)~~ or  
11 imprisoned in the ~~Franklin~~ county jail any time during the then current session of the  
12 General Assembly, or both. ***The Attorney General, upon request of any committee of***  
13 ***the General Assembly or a co-chair of the Commission, shall enforce this section in the***  
14 ***county of residence of the accused person or in Franklin County under KRS 15.210.***

15 ➔Section 2. KRS 11A.010 (Effective until April 1, 2021) is amended to read as  
16 follows:

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

- 18 (1) "Business" means any corporation, limited liability company, partnership, limited  
19 partnership, sole proprietorship, firm, enterprise, franchise, association,  
20 organization, self-employed individual, holding company, joint stock company,  
21 receivership, trust, or any legal entity through which business is conducted, whether  
22 or not for profit;
- 23 (2) "Commission" means the Executive Branch Ethics Commission;
- 24 (3) "Compensation" means any money, thing of value, or economic benefit conferred  
25 on, or received by, any person in return for services rendered, or to be rendered, by  
26 himself or another;
- 27 (4) "Family" means spouse and children, as well as a person who is related to a public

1 servant as any of the following, whether by blood or adoption: parent, brother,  
2 sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-  
3 in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter,  
4 stepbrother, stepsister, half brother, half sister;

5 (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or  
6 anything of value, unless consideration of equal or greater value is received; "gift"  
7 does not include gifts from family members, campaign contributions, the waiver of  
8 a registration fee for a presenter at a conference or training described in KRS  
9 45A.097(5), or door prizes available to the public;

10 (6) "Income" means any money or thing of value received or to be received as a claim  
11 on future services, whether in the form of a fee, salary, expense allowance,  
12 forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other  
13 form of compensation or any combination thereof;

14 (7) "Officer" means:

15 (a) All major management personnel in the executive branch of state government,  
16 including the secretary of the cabinet, the Governor's chief executive officers,  
17 cabinet secretaries, deputy cabinet secretaries, general counsels,  
18 commissioners, deputy commissioners, executive directors, executive  
19 assistants, policy advisors, special assistants, administrative coordinators,  
20 executive advisors, staff assistants, and division directors;

21 (b) Members and full-time chief administrative officers of:

- 22 1. The Parole Board;
- 23 2. Kentucky Claims Commission;
- 24 3. Kentucky Retirement Systems board of trustees;
- 25 4. Kentucky Teachers' Retirement System board of trustees;
- 26 5. The Kentucky Public Employees Deferred Compensation Authority  
27 board of trustees;

- 1           6.   Public Service Commission;
- 2           7.   Worker's Compensation Board and its administrative law judges;
- 3           8.   The Kentucky Occupational Safety and Health Review Commission;
- 4           9.   The Kentucky Board of Education;~~and~~
- 5           10. The Council on Postsecondary Education; **and**
- 6           **11. The Kentucky Horse Racing Commission;**
- 7           (c) Salaried members of executive branch boards and commissions; and
- 8           (d) Any person who, through a personal service contract or any other contractual
- 9           employment arrangement with an agency, performs on a full-time,
- 10          nonseasonal basis a function of any major management position listed in this
- 11          subsection;
- 12       (8) "Official duty" means any responsibility imposed on a public servant by virtue of
- 13          his or her position in the state service;
- 14       (9) "Public servant" means:
- 15          (a) The Governor;
- 16          (b) The Lieutenant Governor;
- 17          (c) The Secretary of State;
- 18          (d) The Attorney General;
- 19          (e) The Treasurer;
- 20          (f) The Commissioner of Agriculture;
- 21          (g) The Auditor of Public Accounts;
- 22          (h) All employees in the executive branch including officers as defined in
- 23          subsection (7) of this section and merit employees; and
- 24          (i) Any person who, through any contractual arrangement with an agency, is
- 25          employed to perform a function of a position within an executive branch
- 26          agency on a full-time, nonseasonal basis;
- 27       (10) "Agency" means every state office, cabinet, department, board, commission, public

1 corporation, or authority in the executive branch of state government. A public  
2 servant is employed by the agency by which his or her appointing authority is  
3 employed, unless his or her agency is attached to the appointing authority's agency  
4 for administrative purposes only, or unless the agency's characteristics are of a  
5 separate independent nature distinct from the appointing authority and it is  
6 considered an agency on its own, such as an independent department;

7 (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS  
8 6.611(23) or any person employed as an executive agency lobbyist as defined in  
9 KRS 11A.201(9);

10 (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes,  
11 opposes, or acts;

12 (13) "Candidate" means those persons who have officially filed candidacy papers or who  
13 have been nominated by their political party pursuant to KRS 118.105, 118.115,  
14 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of  
15 this section;

16 (14) "Does business with" or "doing business with" means contracting, entering into an  
17 agreement, leasing, or otherwise exchanging services or goods with a state agency  
18 in return for payment by the state, including accepting a grant, but not including  
19 accepting a state entitlement fund disbursement;

20 (15) "Public agency" means any governmental entity;

21 (16) "Appointing authority" means the agency head or any person whom he or she has  
22 authorized by law to act on behalf of the agency with respect to employee  
23 appointments;

24 (17) "Represent" means to attend an agency proceeding, write a letter, or communicate  
25 with an employee of an agency on behalf of someone else;

26 (18) "Directly involved" means to work on personally or to supervise someone who  
27 works on personally;

1 (19) "Sporting event" means any professional or amateur sport, athletic game, contest,  
2 event, or race involving machines, persons, or animals, for which admission tickets  
3 are offered for sale and that is viewed by the public;

4 (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership,  
5 joint venture, joint stock company, syndicate, business or statutory trust, donative  
6 trust, estate, company, corporation, limited liability company, association, club,  
7 committee, organization, or group of persons acting in concert; and

8 (21) "Salaried" means receiving a fixed compensation or benefit reserved for full-time  
9 employees, which is paid on a regular basis without regard to the actual number of  
10 hours worked.

11 ➔Section 3. KRS 11A.010 (Effective April 1, 2021) is amended to read as  
12 follows:

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

14 (1) "Business" means any corporation, limited liability company, partnership, limited  
15 partnership, sole proprietorship, firm, enterprise, franchise, association,  
16 organization, self-employed individual, holding company, joint stock company,  
17 receivership, trust, or any legal entity through which business is conducted, whether  
18 or not for profit;

19 (2) "Commission" means the Executive Branch Ethics Commission;

20 (3) "Compensation" means any money, thing of value, or economic benefit conferred  
21 on, or received by, any person in return for services rendered, or to be rendered, by  
22 himself or herself or another;

23 (4) "Family" means spouse and children, as well as a person who is related to a public  
24 servant as any of the following, whether by blood or adoption: parent, brother,  
25 sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-  
26 in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter,  
27 stepbrother, stepsister, half brother, half sister;

- 1 (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or  
2 anything of value, unless consideration of equal or greater value is received; "gift"  
3 does not include gifts from family members, campaign contributions, the waiver of  
4 a registration fee for a presenter at a conference or training described in KRS  
5 45A.097(5), or door prizes available to the public;
- 6 (6) "Income" means any money or thing of value received or to be received as a claim  
7 on future services, whether in the form of a fee, salary, expense allowance,  
8 forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other  
9 form of compensation or any combination thereof;
- 10 (7) "Officer" means:
- 11 (a) All major management personnel in the executive branch of state government,  
12 including the secretary of the cabinet, the Governor's chief executive officers,  
13 cabinet secretaries, deputy cabinet secretaries, general counsels,  
14 commissioners, deputy commissioners, executive directors, executive  
15 assistants, policy advisors, special assistants, administrative coordinators,  
16 executive advisors, staff assistants, and division directors;
- 17 (b) Members and full-time chief administrative officers of:
- 18 1. The Parole Board;
- 19 2. Kentucky Claims Commission;
- 20 3. Kentucky Retirement Systems board of trustees;
- 21 4. Kentucky Teachers' Retirement System board of trustees;
- 22 5. The Kentucky Public Employees Deferred Compensation Authority  
23 board of trustees;
- 24 6. Public Service Commission;
- 25 7. Worker's Compensation Board and its administrative law judges;
- 26 8. The Kentucky Occupational Safety and Health Review Commission;
- 27 9. The Kentucky Board of Education;

- 1           10. The Council on Postsecondary Education;
- 2           11. County Employees Retirement System board of trustees;~~[-and]~~
- 3           12. Kentucky Public Pensions Authority; ***and***
- 4           ***13. The Kentucky Horse Racing Commission;***
- 5           (c) Salaried members of executive branch boards and commissions; and
- 6           (d) Any person who, through a personal service contract or any other contractual
- 7           employment arrangement with an agency, performs on a full-time,
- 8           nonseasonal basis a function of any major management position listed in this
- 9           subsection;
- 10       (8) "Official duty" means any responsibility imposed on a public servant by virtue of
- 11       his or her position in the state service;
- 12       (9) "Public servant" means:
- 13       (a) The Governor;
- 14       (b) The Lieutenant Governor;
- 15       (c) The Secretary of State;
- 16       (d) The Attorney General;
- 17       (e) The Treasurer;
- 18       (f) The Commissioner of Agriculture;
- 19       (g) The Auditor of Public Accounts;
- 20       (h) All employees in the executive branch including officers as defined in
- 21       subsection (7) of this section and merit employees; and
- 22       (i) Any person who, through any contractual arrangement with an agency, is
- 23       employed to perform a function of a position within an executive branch
- 24       agency on a full-time, nonseasonal basis;
- 25       (10) "Agency" means every state office, cabinet, department, board, commission, public
- 26       corporation, or authority in the executive branch of state government. A public
- 27       servant is employed by the agency by which his or her appointing authority is

- 1 employed, unless his or her agency is attached to the appointing authority's agency  
2 for administrative purposes only, or unless the agency's characteristics are of a  
3 separate independent nature distinct from the appointing authority and it is  
4 considered an agency on its own, such as an independent department;
- 5 (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS  
6 6.611(23) or any person employed as an executive agency lobbyist as defined in  
7 KRS 11A.201(9);
- 8 (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes,  
9 opposes, or acts;
- 10 (13) "Candidate" means those persons who have officially filed candidacy papers or who  
11 have been nominated by their political party pursuant to KRS 118.105, 118.115,  
12 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of  
13 this section;
- 14 (14) "Does business with" or "doing business with" means contracting, entering into an  
15 agreement, leasing, or otherwise exchanging services or goods with a state agency  
16 in return for payment by the state, including accepting a grant, but not including  
17 accepting a state entitlement fund disbursement;
- 18 (15) "Public agency" means any governmental entity;
- 19 (16) "Appointing authority" means the agency head or any person whom he or she has  
20 authorized by law to act on behalf of the agency with respect to employee  
21 appointments;
- 22 (17) "Represent" means to attend an agency proceeding, write a letter, or communicate  
23 with an employee of an agency on behalf of someone else;
- 24 (18) "Directly involved" means to work on personally or to supervise someone who  
25 works on personally;
- 26 (19) "Sporting event" means any professional or amateur sport, athletic game, contest,  
27 event, or race involving machines, persons, or animals, for which admission tickets



1 are offered for sale and that is viewed by the public;

2 (20) "Person" means an individual, proprietorship, firm, partnership, limited partnership,  
3 joint venture, joint stock company, syndicate, business or statutory trust, donative  
4 trust, estate, company, corporation, limited liability company, association, club,  
5 committee, organization, or group of persons acting in concert; and

6 (21) "Salaried" means receiving a fixed compensation or benefit reserved for full-time  
7 employees, which is paid on a regular basis without regard to the actual number of  
8 hours worked.

9 ➔Section 4. KRS 11A.060 is amended to read as follows:

10 (1) The Executive Branch Ethics Commission is hereby established.

11 (2) The commission shall be composed of seven (7)~~five (5)~~ members, two (2) of  
12 whom shall be appointed by the Governor.

13 *Each of the following shall appoint one (1) member of the commission:*

14 *(a) Treasurer;*

15 *(b) Auditor of Public Accounts;*

16 *(c) Commissioner of Agriculture;*

17 *(d) Secretary of State; and*

18 *(e) Attorney General.*

19 (3) *On the effective date of this Act, the terms of the existing members of the*  
20 *commission shall terminate and seven (7) new initial members shall be appointed*  
21 *by the officials listed under subsection (2) of this section.* Members of the  
22 commission shall serve staggered terms of four (4) years. Of the initial members  
23 appointed as provided in this section, one (1) member shall serve a term of one (1)  
24 year *and shall be appointed by the Treasurer,* one (1) member shall serve a term of  
25 two (2) years *and shall be appointed by the Auditor of Public Accounts, two (2)*  
26 *members*~~one (1) member~~ shall serve a term of three (3) years, *one (1) of whom*  
27 *shall be appointed by the Governor and one (1) of whom shall be appointed by the*

1 Commissioner of Agriculture, and three (3)~~[two (2)]~~ members shall be appointed  
 2 for terms of four (4) years, one (1) of whom shall be appointed by the Governor,  
 3 one (1) of whom shall be appointed by the Secretary of State, and one (1) of  
 4 whom shall be appointed by the Attorney General. Thereafter, all appointments  
 5 shall be for staggered terms of four (4) years.

6 (4) The commission shall every two (2) years elect from its membership a  
 7 chair~~[chairman]~~ and vice chair~~[chairman]~~. In the absence of the chair~~[chairman]~~ or  
 8 in the event of a vacancy in that position, the vice chair~~[chairman]~~ shall serve as  
 9 chair~~[chairman]~~.

10 (5) A member of the commission shall receive one hundred dollars (\$100) per day for  
 11 attending meetings and shall be reimbursed for actual and necessary expenses  
 12 incurred in the performance of duties.

13 (6) All members shall be registered voters of the state.

14 (7) Members of the commission shall be removed by the appointing authority who  
 15 appointed him or her~~[Governor]~~ for cause only, including substantial neglect of  
 16 duty and inability to discharge the powers and duties of office.

17 (8) A quorum shall consist of four (4)~~[three (3)]~~ or more members. An affirmative vote  
 18 of four (4)~~[three (3)]~~ or more members shall be necessary for commission action.

19 (9) The commission shall meet at the call of the chair~~[chairman]~~ or a majority of its  
 20 members.

21 (10) The commission shall be attached to the Finance and Administration Cabinet for  
 22 administrative purposes only.

23 (11) The commission shall not be reorganized except by statute.

24 ➔Section 5. KRS 11A.080 is amended to read as follows:

25 (1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its  
 26 own motion, the commission shall conduct a preliminary investigation of any  
 27 alleged violation of this chapter.

1 (b) The preliminary investigation shall begin not later than ten (10) days after the  
2 next commission meeting following the receipt of the sworn complaint, or, if  
3 the investigation is initiated by the commission's own motion, not later than  
4 ten (10) days after the date of the adoption of the motion.

5 (c) Within ten (10) days of the commencement of the preliminary investigation,  
6 the commission shall forward a copy of the complaint, if one has been filed, or  
7 a statement of possible violations being investigated, and a general statement  
8 of the applicable law to the person alleged to have committed a violation.

9 **(d) For each complaint filed by a person other than the commission or a**  
10 **member of the commission, the commission shall make a finding as to**  
11 **whether the complaint is:**

12 **1. Well-grounded in fact;**

13 **2. Warranted by existing law; and**

14 **3. Filed for a good faith argument or reason and not for any improper**  
15 **purpose, such as for political advantage, to harass or embarrass a**  
16 **person or persons, to cause delays, or to increase the costs of**  
17 **adjudicating a case before the commission.**

18 (2) All commission proceedings and records relating to a preliminary investigation  
19 shall be confidential until a final determination is made by the commission, except:

20 (a) The commission may turn over to the Attorney General, the United States  
21 Attorney, or the Commonwealth's attorney of the jurisdiction in which the  
22 offense allegedly occurred, evidence which may be used in criminal  
23 proceedings or, at its discretion, may at any time turn over to the Personnel  
24 Board, the Auditor of Public Accounts, or any other agency with jurisdiction  
25 to review, audit, or investigate the alleged offense, evidence which may be  
26 used by those agencies for investigative purposes;

27 (b) If the alleged violator publicly discloses the existence of a preliminary

1 investigation, the commission may publicly confirm the existence of the  
2 inquiry and, in its discretion, make public any documents which were issued  
3 to either party;

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

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

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

19 (a) Due to mitigating circumstances such as lack of significant economic  
20 advantage or gain by the alleged violator, lack of significant economic loss to  
21 the state, or lack of significant impact on public confidence in government, in  
22 writing, confidentially reprimand the alleged violator for potential violations  
23 of the law and provide a copy of the reprimand to the alleged violator's  
24 appointing authority, if any. If the alleged violator publicly discloses the  
25 existence of such an action, the commission may confirm the existence of the  
26 action and, in its discretion, make public any documents which were issued to  
27 the alleged violator; or

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

3 (5) If the commission determines that a violation of this chapter has occurred in a case  
4 involving a contract with state government, the secretary of the Finance and  
5 Administration Cabinet may void any contract related to that case.

6 (6) If the commission determines that a violation of the provisions of KRS 11A.001 to  
7 11A.130 has occurred, an employer of a former officer or public servant may be  
8 subject to a fine of up to one thousand dollars (\$1,000) for each offense.

9 ➔Section 6. KRS 230.230 is amended to read as follows:

10 (1) The Governor shall appoint an executive director who shall serve at the pleasure of  
11 the Governor. The Governor shall set the qualifications and salary for the position  
12 of executive director pursuant to KRS 64.640. The executive director shall possess  
13 the powers and perform the duties imposed upon him by the Governor, and other  
14 duties as the racing commission may direct or prescribe. The executive director  
15 shall:

- 16 (a) Be responsible for the day-to-day operations of the racing commission;  
17 (b) Set up appropriate organizational structures and personnel policies for  
18 approval by the racing commission;  
19 (c) Appoint all staff;  
20 (d) Prepare annual reports of the racing commission's program of work;  
21 (e) Carry out policy and program directives of the racing commission;  
22 (f) Prepare and submit to the racing commission for its approval the proposed  
23 biennial budget of the racing commission; and  
24 (g) Perform all other duties and responsibilities assigned by law.

25 The executive director shall cause to be kept a full record of all proceedings  
26 before the racing commission and shall preserve at its general office all books,  
27 maps, records, documents, licenses, and other papers of the racing

1           commission. All records of the racing commission shall be open to inspection  
2           by the public during regular office hours. With approval of the racing  
3           commission, the executive director may enter into agreements with any state  
4           agency or political subdivision of the state, any postsecondary education  
5           institution, or any other person or entity to enlist assistance to implement the  
6           duties and responsibilities of the racing commission.

7   (2) The executive director of the racing commission may employ, dismiss, or take other  
8   personnel action concerning an assistant executive director, stenographers, clerks,  
9   and other personnel as he or she may deem necessary to efficiently operate the  
10  racing commission's general office or any branch thereof. The executive director of  
11  the racing commission shall fix the compensation of all employees. Any member of  
12  the racing commission or any employee referred to in this section shall be  
13  reimbursed for expenses paid or incurred in the discharge of official business when  
14  approved by the executive director of the racing commission. The compensation of  
15  the employees referred to in this section, except for the executive director, together  
16  with reimbursement of expenses incurred by employees, a member of the racing  
17  commission, or the executive director, shall be paid from racing commission funds.

18  (3) *Members of the Kentucky Horse Racing Commission shall be subject to the*  
19  *provisions of Sections 2 and 3 of this Act.*