

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,
24 and except that a request for a review under KRS 61.880 of any determination by
25 the director shall be made to the Legislative Research Commission, which shall
26 issue its decision within thirty (30) days. If the Legislative Research Commission
27 does not issue its decision on a review of the director's determination within thirty

1 (30) days of submission to it of the matter, the director's determination may be
2 appealed to the Franklin Circuit Court within sixty (60) days of its issuance. For
3 purposes of this subsection, any reference to the Attorney General in KRS 61.880
4 and 61.882 shall 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
14 action with himself, or with any business in which he or a member of his family has
15 any 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 craftspersons 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
19 funds disbursed through entitlement programs. This provision shall not apply to
20 purchases from a state agency that are available on the same terms to the general
21 public or that are made at public auction. This provision shall not apply to former
22 officers of the Department of Public Advocacy whose continued representation of
23 clients is 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
2 tenure. This provision shall not prohibit an individual from returning to the same
3 business, firm, occupation, or profession in which he was involved prior to taking
4 office or beginning his term of employment, or for which he received, prior to his
5 state 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
7 directly involved during the last thirty-six (36) months of his tenure in state
8 government. This subsection shall not prohibit the performance of ministerial
9 functions, including but not limited to filing tax returns, filing applications for
10 permits or licenses, or filing incorporation papers, nor shall it prohibit the former
11 officer or public servant from receiving public funds disbursed through entitlement
12 programs.

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

- 16 (a) The date of leaving office or termination of employment; or
17 (b) The date the term of office expires to which the public servant was elected.

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

- 22 (a) The date of leaving office or termination of employment; or
23 (b) The date the term of office expires to which the public servant was elected.

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

1 limited to the receipt of entitlement funds.

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

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

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

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

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

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

2 (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts
3 or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria,
4 totaling a value greater than twenty-five dollars (\$25) in a single calendar year
5 from:

6 (a) Any person or business that does business with, is regulated by, is seeking
7 grants from, is involved in litigation against, or is lobbying or attempting to
8 influence the actions of the agency in which the public servant is employed or
9 which he supervises, or from any group or association which has as its
10 primary purpose the representation of those persons or businesses. Nothing
11 contained in this ~~paragraph~~_[subsection] shall prohibit the commission from
12 authorizing exceptions to this subsection where such exemption would not
13 create an appearance of impropriety. This ~~paragraph~~_[subsection] shall not
14 apply to:

15 ~~1.(a)~~ Activities involving sponsorships, naming rights, or similar
16 honoraria granted under KRS 45A.097; or

17 ~~2.(b)~~ Individuals traveling on their own while involved in activities
18 related to KRS 45A.097; or

19 (b) Any person or business holding, having an interest in, or seeking a state
20 contract.

21 (2) Nothing in KRS Chapter 11A shall prohibit or restrict the allocation of or
22 acceptance by a public servant of a ticket for admission to a sporting event if the
23 ticket or admission is paid for by the public servant at face value or is paid for at
24 face value by the individual to whom the ticket is allocated.

25 (3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a
26 public servant of the Cabinet for Economic Development or by any other public
27 servant working directly with the cabinet on an economic incentive package of

1 anything of economic value as a gift or gratuity, if the gift or gratuity:

2 (a) Was not solicited by the public servant;

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

16 (c) Was not accepted under circumstances which would create a violation of KRS
17 Chapter 521.

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

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

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

1 (b) Each officer and public servant listed in KRS 11A.010(9)(a) to (g) who does
2 not remain an officer or public servant listed in KRS 11A.010(9)(a) to (g) for
3 the entire calendar year shall file the statement for the portion of the calendar
4 year that the person served as an officer or public servant listed in KRS
5 11A.010(9)(a) to (g). The statement shall be filed with the commission within
6 thirty (30) days after the date the person no longer serves as an officer or
7 public servant listed in KRS 11A.010(9)(a) to (g).

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

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

14 (3) The statement of financial disclosure shall be filed on a form prescribed by the
15 commission. The commission shall provide copies of the form upon request without
16 charge.

17 ~~(4)~~(3) The statement shall include the following information for the preceding
18 calendar year:

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

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

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

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

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

27 (f) The name and address of any source of gross income exceeding one thousand

1 dollars (\$1,000) from any one (1) source to the filer, his spouse, or dependent
2 child, as well as information concerning the nature of the business, and the
3 form of the income;

4 (g) Sources of retainers received by the filer or his spouse relating to matters of
5 the state agency for which the filer works or supervises or of any other entity
6 of state government for which the filer would serve in a decision-making
7 capacity, including each source's name and address;

8 (h) Any representation or intervention for compensation by the filer or his spouse
9 for any person or business before a state agency for which the filer works or
10 supervises or before any entity of state government for which the filer would
11 serve in a decision-making capacity, including the name and address of the
12 person or business;

13 (i) All positions of a fiduciary nature held by the filer or his spouse in a business,
14 including the name and address of the business;

15 (j) Information, including a street address or location, regarding any real property
16 in which there is an interest of ten thousand dollars (\$10,000) or more held by
17 the filer, his spouse, or dependent children;

18 (k) Sources, including each source's name and address, of gifts of money or
19 property with a retail value of more than two hundred dollars (\$200) from any
20 one (1) source to the filer, his spouse, or dependent children, except those
21 from a member of the filer's family;~~and~~

22 (l) Identity, including an address, of creditors owed more than ten thousand
23 dollars (\$10,000), except debts arising from the purchase of consumer goods;
24 and

25 (m) All management or other fiduciary roles in any investment entity in which
26 the Teachers' Retirement System, the Judicial Retirement Plan, or the
27 Kentucky Retirement Systems has an investment interest.

1 Paragraphs (a) to ~~(m)~~⁽⁴⁾ of this subsection shall not require disclosure of specific
2 dollar amounts or of privileged information.

3 **(5) Constitutional officers shall file with the commission a copy of the federal**
4 **income tax return described in 26 U.S.C. sec. 6103(b)(1) that he or she filed with**
5 **the Internal Revenue Service on or before April 15 of the following year.**

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

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

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

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

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

23 (3) Members of the commission **shall be appointed**~~shall serve staggered terms of four~~
24 ~~(4) years. Of the initial members appointed as provided in this section, one (1)~~
25 ~~member shall serve a term of one (1) year, one (1) member shall serve a term of two~~
26 ~~(2) years, one (1) member shall serve a term of three (3) years, and two (2) members~~
27 ~~shall be appointed for terms of four (4) years. Thereafter, all appointments shall be]~~

1 for four (4) year terms~~[years]~~. Any vacancy on the commission shall be filled by
 2 the Governor with a nominee from the same constitutional officer who
 3 nominated the person whose vacancy is being filled.

4 (4) The commission shall elect from its membership a chairman and vice chairman. In
 5 the absence of the chairman or in the event of a vacancy in that position, the vice
 6 chairman shall serve as chairman.

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

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

11 (7) Members of the commission shall be removed by the commission~~[Governor]~~ for
 12 cause only, including substantial neglect of duty and inability to discharge the
 13 powers and duties of office. Members shall be removed only after:

14 (a) A hearing before the commission with the opportunity for counsel;

15 (b) Findings of fact; and

16 (c) A majority vote of the remaining members of the commission

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

19 (9) The commission shall meet at the call of the chairman or a majority of its members.

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

22 ➔Section 6. KRS 11A.070 is amended to read as follows:

23 (1) The commission shall~~[may]~~ employ an executive director who shall serve a term of
 24 five (5) years unless sooner removed by the commission. The executive director
 25 shall have at least eight (8) years' experience in law enforcement or shall have
 26 practiced law for at least eight (8) years. The director may be reemployed for one
 27 (1) additional five (5) year term of office.

1 (2) The executive director shall be sworn into office using the oath set out under
 2 Section 228 of the Constitution of Kentucky.

3 (3) The commission shall employ at least four (4) full-time investigators and any
 4 other employees ~~[, agents, and consultants]~~ it considers necessary, and may prescribe
 5 their duties, fix their compensation, and provide for reimbursement of their
 6 expenses within the amount available therefor by appropriation. All employees shall
 7 be independent employees of the commission and not subject to KRS Chapter
 8 18A~~[The commission may also engage outside professional counsel it considers~~
 9 ~~necessary]~~. The commission and its staff may also make use of the services and
 10 facilities of the office of the Attorney General or of any other state agency.

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

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

1 proceedings or, at its discretion, may at any time turn over to the Personnel
2 Board, the Auditor of Public Accounts, or any other agency with jurisdiction
3 to review, audit, or investigate the alleged offense, evidence which may be
4 used by those agencies for investigative purposes. **The commission shall not**
5 **turn over information relating to the investigation to any other agencies,**
6 **contractors, or persons;**

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

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

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

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

26 (a) Due to mitigating circumstances such as lack of significant economic
27 advantage or gain by the alleged violator, lack of significant economic loss to

1 the state, or lack of significant impact on public confidence in government, in
2 writing, confidentially reprimand the alleged violator for potential violations
3 of the law and provide a copy of the reprimand to the alleged violator's
4 appointing authority, if any. If the alleged violator publicly discloses the
5 existence of such an action, the commission may confirm the existence of the
6 action and, in its discretion, make public any documents which were issued to
7 the alleged violator; or

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

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

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

14 The commission shall perform the following additional duties:

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

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

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

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

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

1 *of state government. No other state agency shall create or maintain an ethics tip*
 2 *line.*

3 ➔Section 9. KRS 11A.990 is amended to read as follows:

4 (1) Any person who violates KRS 11A.040 shall be guilty of a Class D felony. In
 5 addition:

6 (a) The judgment of conviction for a violation of KRS 11A.040(2) shall recite
 7 that the offender is disqualified to hold office thereafter; and

8 (b) Any person who violates KRS 11A.040(1) to (5) shall be judged to have
 9 forfeited any employment, or constitutional or statutory office he holds,
 10 provisions of KRS Chapter 18A to the contrary notwithstanding.

11 (2) Any officer, public servant, *board or commission appointee,* or candidate required
 12 to file a statement of financial disclosure *or a copy of their tax returns* under KRS
 13 11A.050 who *knowingly withholds information from, or intentionally misleads,*
 14 *the commission, or* does not file the statement *or a copy of their tax return* by a
 15 date specified in that section shall:

16 *(a) Be guilty of a Class D felony;*

17 *(b) Be disqualified to hold public office; and*

18 *(c) Forfeit his or her state employment or appointment* ~~have his salary withheld~~
 19 ~~from the first day of noncompliance until he shall have completed the action~~
 20 ~~required by law. The amount withheld shall be deducted from his overall pay~~
 21 ~~and allowances and shall be recoverable upon the filing of the statement of~~
 22 ~~financial disclosure. The commission may grant a reasonable extension of~~
 23 ~~time for filing a statement of financial disclosure for good cause shown].~~

24 (3) Any person who maliciously files with the commission a false charge of misconduct
 25 on the part of any public servant or other person shall be fined not to exceed five
 26 thousand dollars (\$5,000), or imprisoned in a county jail for a term not to exceed
 27 one (1) year, or both.

- 1 (4) Prosecution for violation of any provision of KRS 11A.040 shall not be commenced
2 after four (4) years have elapsed from the date of the violation. Any executive
3 agency lobbyist, employer, or real party in interest who violates any provision in
4 KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed
5 five thousand dollars (\$5,000). For the second and each subsequent violation, he
6 shall be guilty of a Class D felony.
- 7 (5) Any executive agency lobbyist, employer, or real party in interest who fails to file
8 the initial registration statement or updated registration statement required by KRS
9 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely
10 manner, may be fined by the commission an amount not to exceed one hundred
11 dollars (\$100) per day, up to a maximum total fine of one thousand dollars (\$1,000).
- 12 (6) Any executive agency lobbyist, employer, or real party in interest who intentionally
13 fails to register, or who intentionally files an initial registration statement or updated
14 registration statement required by KRS 11A.211 or 11A.216 which he knows to
15 contain false information or to omit required information shall be guilty of a Class
16 D felony.
- 17 (7) An executive agency lobbyist, employer, or real party in interest who files a false
18 statement of expenditures or details of a financial transaction under KRS 11A.221
19 or 11A.226 is liable in a civil action to any official or employee who sustains
20 damage as a result of the filing or publication of the statement.
- 21 (8) Violation of KRS 11A.236 is a Class D felony.
- 22 ➔Section 10. KRS 12.028 is amended to read as follows:
- 23 (1) Recognizing the necessity for grouping related functions of organizational units and
24 administrative bodies in order to promote greater economy, efficiency and improved
25 administration, the Governor, the Kentucky Economic Development Partnership as
26 created in KRS 154.10-010, and other elected state executive officers may propose
27 to the General Assembly, for its approval, changes in the state government

1 organizational structure which may include the creation, alteration or abolition of
2 any organizational unit or administrative body and the transfer of functions,
3 personnel, funds, equipment, facilities, and records from one (1) organizational unit
4 or administrative body to another.

5 (2) Recognizing that changes in the state government organizational structure may need
6 to be made as rapidly as possible to achieve greater economy, efficiency, and
7 improved administration as the needs of government dictate, the Governor, the
8 Kentucky Economic Development Partnership as created in KRS 154.10-010, and
9 other elected state executive officers may, between sessions of the General
10 Assembly, temporarily effect a change in the state government organizational
11 structure as described in subsection (1) of this section if such temporary
12 reorganization plan is first reviewed by the interim joint legislative committee with
13 appropriate jurisdiction. The Governor may not effect a temporary reorganization
14 plan under this subsection that would change the organizational structure of an
15 organizational unit or administrative body headed by the Kentucky Economic
16 Development Partnership as created in KRS 154.10-010, ~~or~~ another elected state
17 executive officer unless requested in writing by that officer, or the Executive
18 Branch Ethics Commission. An elected state executive officer other than the
19 Governor may only change the organizational structure of an organizational unit or
20 administrative body that he heads.

21 (3) Any reorganization proposed under subsection (1) or (2) of this section shall be set
22 forth in a reorganization plan which shall be filed with the Legislative Research
23 Commission. The plan shall include:

- 24 (a) An explanation of each proposed change, including the need for the change;
25 (b) An estimate of any reduction or increase in expenditures, itemized as far as
26 practicable, which the promulgating officer expects will result from the
27 reorganization;

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

1 created in KRS 154.10-010, or other officer who promulgated a temporary
2 reorganization plan under this section shall recommend legislation to the General
3 Assembly to confirm the temporary reorganization plan. The subject matter of each
4 executive order relating to reorganization shall be presented to the General
5 Assembly in a separate bill. If the General Assembly fails to enact the temporary
6 reorganization plan or an alternative to such plan, the organizational structure that
7 existed immediately prior to the implementation of the temporary plan shall be
8 reinstated upon the termination of the temporary plan. If the General Assembly fails
9 to enact a temporary reorganization plan, the Governor, the Kentucky Economic
10 Development Partnership as created in KRS 154.10-010, and other elected state
11 executive officers shall not effect the plan prior to the next succeeding session of
12 the General Assembly.

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

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

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

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

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

- 1 Prior to the exercise of appointing authority, such designation shall be filed with the
2 secretary;
- 3 (2) "Base salary or wages" means the compensation to which an employee is entitled
4 under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and
5 18A.110. Base salary or wages shall be adjusted as provided under the provisions of
6 KRS 18A.355 and 48.130;
- 7 (3) "Board" means the Personnel Board created by KRS 18A.045;
- 8 (4) "Career employee" shall mean a state employee with sixteen (16) or more years of
9 permanent full-time state service, or the part-time employment equivalent of at least
10 sixteen (16) years of full-time state service. The service may have been in the
11 classified service, the unclassified service, or a combination thereof;
- 12 (5) "Certification" means the referral of the name of one (1) or more qualified
13 prospective employees by the secretary on request of an appointing officer for
14 consideration in filling a position in the classified service;
- 15 (6) "Class" means a group of positions sufficiently similar as to duties performed, scope
16 of discretion and responsibility, minimum requirements of training, experience, or
17 skill, and such other characteristics that the same title, the same tests of fitness, and
18 the same schedule of compensation have been or may be applied to each position in
19 the group;
- 20 (7) "Classified employee" means an employee appointed to a position in the classified
21 service whose appointment and continued employment are subject to the classified
22 service provisions of this chapter;
- 23 (8) "Classified position" means a position in the executive branch of state government
24 that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115,
25 KRS Chapter 151B, or any other provision of law;
- 26 (9) "Classified service" includes all the employment subject to the terms of this chapter
27 except for those positions expressly cited in KRS 18A.115; a "classified position" is

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

- 1 except as provided by KRS 18A.095(14) and 18A.140;
- 2 (16) "Federally funded position" means a full-time or a part-time position in which the
3 unclassified employee is eligible for benefits at the same level as a classified
4 employee in a permanent position;
- 5 (17) "Full-time employee" means an employee in a full-time position;
- 6 (18) "Full-time position" means a position, other than an interim position, requiring an
7 employee to work at least thirty-seven and one-half (37.5) hours in a work week,
8 except for the following:
- 9 (a) Positions in the state parks, where the work assigned is dependent upon
10 fluctuations in tourism, may be assigned work hours from twenty-five (25)
11 hours per week during the off seasons and remain in full-time positions; and
- 12 (b) Positions in health care facilities, which regularly involve three (3)
13 consecutive days of twelve (12) hour shifts to cover weekends, shall be
14 considered full-time;
- 15 (19) "Initial probation" means the period of service following initial appointment to any
16 position under KRS 18A.010 to 18A.200 which requires special observation and
17 evaluation of an employee's work and which must be passed successfully before
18 status may be conferred as provided in KRS 18A.110 and by the provisions of this
19 chapter. If the appointee is granted leave in excess of twenty (20) consecutive work
20 days during this period, his initial probation shall be extended for the same length of
21 time as the granted leave to cover such absence;
- 22 (20) "Interim employee" means an unclassified employee without status who has been
23 appointed to an interim position that shall be less than nine (9) months duration;
- 24 (21) "Interim position" means a position established to address a one-time or recurring
25 need of less than nine (9) months duration and exempt from the classified service
26 under KRS 18A.115;
- 27 (22) "Part-time employee" means an employee in a part-time position;

- 1 (23) "Part-time position" means a position, other than an interim position, requiring an
2 employee to work less than one hundred (100) hours per month;
- 3 (24) "Penalization" means demotion, dismissal, suspension, fines, and other disciplinary
4 actions; involuntary transfers; salary adjustments; any action that increases or
5 diminishes the level, rank, discretion, or responsibility of an employee without
6 proper cause or authority, including a reclassification or reallocation to a lower
7 grade or rate of pay; and the abridgment or denial of other rights granted to state
8 employees;
- 9 (25) "Position" means an office or employment in an agency (whether part-time, full-
10 time, or interim, occupied, or vacant) involving duties requiring the services of one
11 (1) person;
- 12 (26) "Promotion" means a change of rank of an employee from a position in one (1)
13 class to a position in another class having a higher minimum salary or carrying a
14 greater scope of discretion or responsibility;
- 15 (27) "Promotional probation" means the period of service, consistent with the length of
16 the initial probationary period, following the promotion of an employee with status
17 which must be successfully completed in order for the employee to retain the
18 position to which he has been promoted. If the employee is granted leave in excess
19 of twenty (20) consecutive work days during this period, his promotional probation
20 shall be extended for the same length of time as the granted leave to cover such
21 absence;
- 22 (28) "Qualifying" means the selection method type which results when the knowledge,
23 skills, and abilities necessary for a job classification cannot be accurately measured
24 by written examination;
- 25 (29) "Reallocation" means the correction of the classification of an existing position by
26 placement of the position into the classification that is appropriate for the duties the
27 employee has been and shall continue to perform;

- 1 (30) "Reclassification" shall mean the change in the classification of an employee when
2 a material and permanent change in the duties or responsibilities of that employee
3 has been assigned in writing by the appointing authority;
- 4 (31) "Reemployment" shall mean the rehiring of an employee with status who has been
5 laid-off;
- 6 (32) "Reemployment register" means the separate list of names of persons who have
7 been separated from state service by reason of lay-off. Reemployment registers shall
8 be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;
- 9 (33) "Register" means any official list of eligibles for a particular class and, except as
10 provided in this chapter, placed in rank order according to the examination scores
11 maintained for use in making original appointments or promotions to positions in
12 the classified service;
- 13 (34) "Reinstatement" means the privilege of restoration of an employee who has resigned
14 in good standing at the option of the appointing authority, or who has been ordered
15 reinstated by the board or a court to a position in his former class, or to a position of
16 like status and pay;
- 17 (35) "Relative" means a child, spouse, parent, or sibling.
- 18 **(36)** "Reversion" means either the returning of a status employee to his or her last
19 position held in the classified service, if vacant, or the returning of a status
20 employee to a vacant position in the same or similar job classification as his or her
21 last position held in the classified service. Reversion occurs after a career employee
22 is terminated other than for cause from the unclassified service or after a status
23 employee fails to successfully complete promotional probation. Reversion after
24 unsuccessful completion of promotional probation, or in the case of a career
25 employee after termination from the unclassified service, may only be appealed to
26 the Personnel Board under KRS 18A.095(12);
- 27 **(37)**~~(36)~~ "Seniority" means the total number of months of state service;

1 ~~(38)~~~~(37)~~ "Status" means the acquisition of tenure with all rights and privileges granted
2 by the provisions of this chapter after satisfactory completion of the initial
3 probationary period by an employee in the classified service; and

4 ~~(39)~~~~(38)~~ "Transfer" means a movement of any employee from one (1) position to
5 another of the same grade having the same salary ranges, the same level of
6 responsibility within the classified service, and the same salary received
7 immediately prior to transfer.

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

9 (1) The secretary shall prepare and submit proposed administrative regulations to the
10 Governor for employees in unclassified positions enumerated in KRS
11 18A.115(1)(g), (h), (i), (j), (k), (p), (t), and (u). Such administrative regulations shall
12 become effective after approval by the Governor and promulgation in accordance
13 with KRS Chapters 12 and 13A. The administrative regulations shall provide:

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

26 (b) For a pay plan for all aforementioned employees in the unclassified service,
27 after consultation with appointing authorities and the state budget director,

1 and taking into account such factors as:

- 2 1. The relative levels of duties and responsibilities of various classes of
- 3 positions;
- 4 2. Rates paid for comparable positions elsewhere; and
- 5 3. The state's financial resources.

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

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

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

16 (e) For the development and operation of programs to improve the work
17 effectiveness and morale of employees in the unclassified service, including
18 training, safety, health, welfare, counseling, recreation, and employee
19 relations; and

20 (f) For such other rules and administrative regulations not inconsistent with KRS
21 18A.005 to 18A.200, as may be proper and necessary for its enforcement.

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

26 (3) Months of service earned as a contract employee of the Kentucky Department of
27 Education shall be recognized and credited as service credit for calculating years of

1 service in any public agency position held subsequent to the employment by
2 contract. The provisions of this subsection are retroactive for employees hired in a
3 public agency position on or after January 1, 1997.

4 **(4) No relative of a sitting state legislator or cabinet secretary shall be hired in the**
5 **unclassified service.**

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

7 (1) For purposes of this section:

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

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

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

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

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

1 emergency procurements when an emergency condition exists.

2 (6) The Finance and Administration Cabinet may negotiate directly for the purchase of
 3 contractual services, supplies, materials, or equipment in bona fide emergencies
 4 regardless of estimated costs. The existence of the emergency shall be fully
 5 explained, in writing, by the head of the agency for which the purchase is to be
 6 made. The explanation shall be approved by the secretary of the Finance and
 7 Administration Cabinet and shall include the name of the vendor receiving the
 8 contract along with any other price quotations and a written determination for
 9 selection of the vendor receiving the contract. This information shall be filed with
 10 the record of all such purchases and made available to the public. Where practical,
 11 standard specifications shall be followed in making emergency purchases. In any
 12 event, every effort should be made to effect a competitively established price for
 13 purchases made by the state.

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

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

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

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

20 The Department of Revenue shall not enter into any personal service contract;

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

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

26 ➔Section 15. Sections 5 and 6 of this Act shall take effect January 1, 2019. At
 27 that time the former Executive Branch Ethics Commission shall cease to exist and

1 employees of the Executive Branch Ethics Commission shall become employees
2 independent of KRS Chapter 18A.

3 ➔Section 16. The Attorney General, the Auditor of Public Accounts, the
4 Secretary of State, and the Chief Justice of the Commonwealth shall submit their
5 nominees to the commission created under Section 5 of this Act to the Governor by
6 October 1, 2018. The Governor shall appoint the commissioners on or before December
7 1, 2018 to take effect January 1, 2019.