Bureau of Ethics and Campaign Finance

Tennessee Ethics Commission

404 James Robertson Pkwy, Suite 104

Nashville, TN 37243

(615) 741-7959

http://www.tn.gov/tec

2019 General Assembly Training

SECTION 1

SUMMARY OF PRESENTATION

BUREAU OF ETHICS AND CAMPAIGN FINANCE
TENNESSEE ETHICS COMMISSION
(615) 741-7959
www.tn.gov/tec

ANNUAL ETHICS TRAINING COURSE – 2019

- **T.C.A. § 3-6-113 requires each member of the General Assembly to attend an annual ethics course.**

- **The training manual contains six sections:**

  Section 1. Summary of Presentation

  Section 2. Guiding Principles of Ethical Conduct

  Section 3. Ethics – Statutes

  Section 4. Ethics – Rules

  Section 5. Summary of Advisory Opinions

  Section 6. Examples of Gift Questions

- **Bureau of Ethics and Campaign Finance:**
  - Combines the staffs of the Tennessee Registry of Election Finance and Tennessee Ethics Commission.
  - The Registry and the Commission boards remain separate and still operate the same as before the merger.
  - The Bureau of Ethics and Campaign Finance board consists of the two (2) boards combined.

- **What has to be Filed:**
  - **Statement of Interests** by April 15, 2019 – T.C.A. §§ 2-10-128 and 8-50-502:
    - Obligation to amend "from time to time as conditions change".
    - Travel Disclosure (Chapter 470 of the Public Acts of 2017):
      - Travel expenses, including any expenses incidental to such travel, paid on behalf of the member by a person with interest in a public policy of Tennessee if the travel was for the purpose of informing the member with respect to the public policy. See T.C.A. § 8-50-502(5)(B).

        - Such travel should be disclosed by amending the Statement of Interest form for the year in which the travel occurred.
        - If such travel is paid by a foreign government, it should be disclosed.

    - **Disclosure of Relative Lobbyist** – T.C.A. § 2-10-127:

        - By February 1, 2019, a General Assembly member must disclose any family relationships such as siblings, spouse, or children who are lobbyists on the Disclosure of Relative Lobbyists form SS-8009. A separate form should be filed for each relative and a new form should be filed within 10 days of a family change. This information is posted on the Commission's website.

    - **Out of State Consulting Form** – T.C.A. §2-10-129:

        - Any out of state consulting on contracts by a member or a member's spouse for compensation over $200 with a person or entity that contracts with the State of Tennessee but where the State is not a party must be reported to the Commission by the person or entity compensating the member or the member's spouse within 5 days of entering into any contract for the out of state consulting on Form (SS-8010).

- **Prohibition on In-State-Consulting** – T.C.A. § 2-10-123

    - A member **may not** receive a fee, commission or any other form of compensation for consulting services from any person or entity, other than compensation paid by the state, a county or municipality.

      Consulting services is defined as advising or assisting a person or entity in influencing state legislative or administrative action including, but not limited to, services to advise or assist those in maintaining, applying for, soliciting or entering into a contract with the state.

- **General Assembly Members are Prohibited from Accepting Things of Value from Lobbyist, Employer of Lobbyist or Anyone Acting on Behalf of Lobbyist or Employer of Lobbyist. See T.C.A. § 3-6-304. The Prohibition Includes:**

    - Accepting anything of value from an employer of a lobbyist, a lobbyist, or any person acting at the specific direction of such, based on any understanding that the official's vote, official action or judgment would be influenced;

- Accepting a loan from a lobbyist for himself or herself or for anyone on their behalf;
- Accepting compensation for property or services substantially in excess of that charged in the ordinary course of business;
- Using the credit or credit card of the employer of a lobbyist or a lobbyist or any other credit card over which the employer or the lobbyist has control;
- Accepting campaign contributions from employers of lobbyists or multicandidate political campaign committees controlled by an employer of a lobbyist during any regular session or any extraordinary session;
- Accepting a campaign contribution from a lobbyist, including an in-kind contribution, or a campaign contribution made on behalf of the member.

- **No Member of the General Assembly or Immediate Family Member May Solicit or Accept a Gift from a Lobbyist or Employer of a Lobbyist. See T.C.A. § 3-6-305.**

Exemptions to the gift prohibition include*:*

- Benefits resulting from business, employment, or other outside activities, if benefits of this type are customarily provided to others in similar circumstances;
- Informational materials such as books, articles, periodicals, and other written materials, audiotapes, videotapes, or other forms of communication;
- Specific gifts that are for nonbusiness purposes and motivated by close personal friendships and are authorized by the Ethics Commission rules
- Sample merchandise, promotional items, and appreciation tokens, if such items are routinely given to existing or potential customers or suppliers in the ordinary course of business;
- Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento, and similar items, but these items may not be in a form that can be readily converted into cash;
- Opportunities and benefits made available to all members of an appropriate class of the general public including discounts to the general public or specified groups or occupations under normal business conditions, prizes and awards given in public contests, and unenhanced benefits of participation in specified charitable events given by employers of lobbyists or lobbyists that are held within the state and either open to general participation or when all members of the General Assembly are invited;

- Payment or reimbursements for expenses for out-of-state travel if reimbursed by a governmental entity or established and recognized organization of elected or appointed officials and/or their staff;
- Expenses for entertainment, food, refreshments, meals, beverages, amenities, goody bags, health screenings, promotional items and admission tickets; provided the expenses are in connection with or coordinated with a conference sponsored by an established and recognized organization of elected or appointed officials and/or their staff.

Exemptions for certain in-state activities to the gift prohibition include:

- Gifts from a lobbyist or employer of a lobbyist of entertainment, food, refreshments, meals, beverages, or health screenings that are provided in connection with an **in-state** event to which invitations are extended to the **entire** membership of the General Assembly; **provided** that the cost for the expenses does not exceed $63 per day per person, excluding tax and gratuity. Lobbyists or employers of lobbyists must provide the Commission with a copy of the invitation 7 days in advance so that it may be posted on the Commission's website and lobbyists and employers of lobbyists must report the total cost and the per person cost of the event to the Commission within 30 days following the event. See T.C.A. § 3-6-305(b)(8).

- Participation and gifts at an in-state event sponsored by a lobbyist or an employer of a lobbyist as a speaker or part of a panel discussion at scheduled meeting of an established and recognized membership organization that has regular meetings; provided such gifts are authorized expenses such as food, refreshments, meals, amenities, or beverages that do not exceed the $63 per person per day limit. See T.C.A. § 3-6-305(b)(9).

- Gifts such as food, refreshments, meals, or beverages that are provided by an employer of a lobbyist in connection with an in-state event to which invitations are extended to an official or officials in the legislative branch provided the gifts do not exceed the $63 limit per event per day and no one employer of a lobbyist may exceed $126 in these gifts to such legislative official per calendar year (*exception only applies to a legislator if he or she does not receive the per diem the day which the event is held, the legislator does not receive anything that is not provided to non-legislators, and an officer or management level employee of the employer attends the event*). Note: Exception does not apply to an event sponsored by a <u>lobbyist</u>. See T.C.A. § 3-6-305(b)(10).

- Local travel expenses that are occasional or incidental and no fare is ordinarily charged. See T.C.A. § 3-6-305(b)(11).

- **No Member of the General Assembly Shall be a Lobbyist during the Twelve-Month Period Immediately Following His or Her Departure from Such Office. See T.C.A. § 3-6-304(l).**

- **If you ever have a question(s) please do not hesitate to contact our office. There are three (3) levels that questions may take concerning statutes enforced by the Ethics Commission:**
    - The routine question
    - The informal opinion (T.C.A. § 3-6-117)
    - The advisory opinion (T.C.A. § 3-6-117)

- **Summary of Advisory Opinions (See Section 5)**

- **Examples of Gift Questions (See Section 6)**

- **Civil Penalties under T.C.A. § 3-6-205:**
    - Class 1 – Ethics Commission may assess a civil penalty of up to $25 a day for a Statement of Interest filed up to 30 days late.
    - Class 2 – Ethics Commission may assess a civil penalty of up to $10,000 for a Statement of Interest filed over 30 days late.

- **Civil Penalties under T.C.A. § 3-6-306:**
    - A gift accepted in violation of the gift prohibitions shall not be a violation if the prohibited gift from a lobbyist or an employer of a lobbyist is returned within 10 days after receipt of the gift or within 10 days after learning that the gift is prohibited, or may pay for the gift with equal or greater than value within this same time period.
    - The Ethics Commission may assess a civil penalty, not to exceed **$10,000** if any legislative official or immediate family member knowingly violates any provision related to accepting items of value for influence, or related to unacceptable gifts.
    - For an initial violation of T.C.A. § 3-6-305, the Ethics Commission may assess a civil penalty up to 200% of the value of any gift or $25, whichever is greater. For subsequent violations, the Ethics Commission may assess a civil penalty not to exceed $10,000.
    - If the Ethics Commission determines an egregious violation of these provisions by a General Assembly Member, then it may report its findings

and actions to the ethics committee of the appropriate house of the General Assembly.

- The Ethics Commission may seek injunctive relief in the Chancery Court of Davidson County to prevent any official in the legislative branch or immediate family member from engaging in any continuing violation.

- **Other Reminders:**
  - House Rule 82 – Ethics Code for the House of Representatives.
  - Senate Rule 85 – A Code of Ethics for the Tennessee State Senate.
  - Reminder – authorized charitable lotteries – members of the General Assembly may not purchase tickets for charitable lotteries. See T.C.A. § 3-17-109(a)(4).

- **Campaign Finance Notes:**
  - Use of Campaign Funds on Legislative Per Diem Days:

    On a day that a member of the General Assembly receives per diem, that member may not use campaign funds to pay for non-campaign related meals or lodging for themselves or any other member of the General Assembly that is receiving per diem on that day. On a day per diem is received, meal and lodging expenses in excess of the per diem paid to a member by the State of Tennessee are not considered "ordinary and necessary expenses incurred in connection with the office of the officeholder" [T.C.A. § 2-10-114(a)(7)] and thus are not allowable campaign fund expenses. In addition, these excess meal and lodging expenses are not considered expenses "for the furtherance of the office of the officeholder" [T.C.A. § 2-10-102(6)(B)].
  - Next Report – 4th Quarter 2018 Report – covers the period October 28, 2018 – January 15, 2019 due on January 25, 2019. Exception – Senators in even numbered district – Early Year-End 2018 Report – covers the period July 1, 2018 – January 15, 2019 due on January 31, 2019.
  - Fundraising – May not accept contributions until the earlier of June 1, 2019, or the end of session.

SECTION 2

GIUDING PRINCIPLES OF ETHICAL CONDUCT

GUIDING PRINCIPLES OF ETHICAL CONDUCT FOR PUBLIC OFFICIALS

ARTICLE 1
STATEMENT OF PURPOSE

Under T.C.A. § 3-6-106, the Tennessee Ethics Commission ("Commission") was given the responsibility to recommend guiding principles of ethical conduct for consideration and adoption by the legislative and executive branches. Hence, the purpose of this Guide is to provide the officials listed in § 3-6-106, for their consideration, these suggested standards of ethical conduct when serving the State of Tennessee.

The Commission was established to secure and enhance the integrity of the processes of government and to sustain the public's confidence in government by increasing the integrity and transparency of State and local government. All citizens of the State of Tennessee have the right to expect that government will be administered and managed with the highest degree of professionalism void of undue influence by any individual or group. It is, thus, the obligation of every public official to conduct himself or herself in a manner that will not violate the public trust.

ARTICLE 2
DEFINITIONS

(1) "***Compensation***" means any salary, fee, payment, promise, forbearance, reimbursement, or other valuable consideration, or any combination thereof, whether received or to be received. [1]

(2) "***Gift***" means any payment, honorarium, subscription, loan, promise, advance, forbearance, rendering, or deposit of money or services, unless consideration of equal or greater value is received. "Gift" does not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. "Gift" does not include the waiver of a registration fee for a conference or educational seminar.[2]

(3) "***Immediate Family***" means a spouse or minor child living in the household.[3]

(4) "***Public Official***" includes:

[1] T.C.A. § 3-6-301(7)
[2] T.C.A. § 3-6-301(11)
[3] T.C.A. § 3-6-301(12)

a. Members of the General Assembly; and

b. The Governor, Secretary of State, Treasurer, Comptroller of the Treasury, members of the Governor's Cabinet, and Cabinet level staff within the Governor's Office.[4]

(5) "***Solicit***" means to entreat, to implore, to ask, to attempt, or to try to obtain.[5]

ARTICLE 3
CONFLICTS OF INTEREST

(1) SECTION 1. ***Independence of Judgment.*** Public officials should be independent and impartial, and should avoid conflicts of interest and the appearance of conflicts of interest when performing their duties. In addition, all public officials should be elected, appointed, hired and promoted based upon their qualifications, integrity, honesty, competence, and dedication to fulfilling the public policies of the State. A public official should not act in conflict with the proper discharge of his or her duties in the public interest by

(a) failing to disclose any financial or other interest, or

(b) engaging in any business or transaction or professional activity, or

(c) incurring any obligation of any nature

which would create such a conflict.

(2) A public official should not accept another position, whether compensated or not, which

(a) either will impair, or is likely to impair, the public official's independence of judgment as to the public official's duties or employment, or

(b) will require or induce the public official to disclose confidential or inside information acquired in the course of and by reason of the performance of the official's duties, other than as permitted or required by law.

(3) A public official, a member of the official's immediate family, or a business, in which he or she is an officer, director, or holds more than a minimal interest, should not bid on, or otherwise respond to, a request for proposal or information, or seek any contract with the State, other than a contract of employment as a public official or pursuant to a court appointment, unless the contract has been awarded through an open and public process or as otherwise permitted by law.

(4) A public official, who is involved in making decisions relating to the awarding of State grants or contracts, should not ask any officer, director, employee, or agent of any current or prospective contractor or grantee or contractor to reveal: (a) the party affiliation of the

[4] T.C.A. § 3-6-106(a)(1)(A-B).
[5] T.C.A. § 3-6-301(22).

individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual or entity voted for any elected official or candidate for elective office.

(5) A public official should not take part in any contracting decision relating to:

(a) a member of the public official's immediate family; or

(b) any entity in which a member of the official's immediate family is an officer, director, or partner, or in which a member of the official's immediate family holds more than a minimal interest, except as otherwise permitted by law.

(6) A public official, in the performance of his or her official duties, should not request or demand that any other person or entity make or offer to make any monetary contribution or in-kind contribution to any campaign or to any political campaign committee in exchange for, or as a condition of, receiving some benefit from the State of Tennessee or any department, agency or official thereof, to the person or entity whose contribution is requested or demanded, or to the person making the request or demand.

(7) A public official should not, by his or her statements or conduct, give reasonable basis for the impression that any person can improperly influence him or her, or receive favoritism in the performance of his or her official duties, or that the official's decisions are affected by the kinship, rank, position, or influence of any political party, entity or person. A public official should be prepared to disclose the conflict or the potential conflict of interest or relationship and, if necessary, recuse himself or herself in order to negate any appearance of improper influence.

SECTION 2. ***Integrity of the Processes of Government.*** The integrity and reputation of the government and its processes should at all times be maintained. Government employment is a privilege rather than a right, and is based upon the trust and confidence placed in the State by the public. All public officials should act in a manner consistent with the public trust.

(1) A public official, in the performance of his or her official duties, should not use or attempt to use his or her official position to secure or create unwarranted privileges, exemptions, advantages, or treatment for himself or herself or others. A public official, alone or through others, should not use or attempt to use improper means to influence a department, agency, board, or commission of State government.

(2) A member of the General Assembly should not vote on or influence legislation in committee or on the floor of either house, where he or she has a personal interest in the matter being considered, debated or voted upon, unless the official makes it abundantly clear that the member's decision or vote was not the result of any personal interest, but rather that it was through deliberative processes based solely on the member's views of the merits of the matter and/or the interests of the public. This disclosure may be accomplished by making a public statement using the following, or similar, words: "It may be considered that I have a personal degree of interest in the subject matter of the bill, but I declare that my argument and my

ultimate vote answer only to my conscience and my obligation to my constituents and the citizens of the State of Tennessee."[6]

(3) A public official should not willfully and knowingly disclose, directly or indirectly, for personal gain, confidential information acquired by him or her in the course of and by reason of his or her official duties or employment, unless such disclosure is required or permitted by law.[7]

(4) A public official should not receive anything of economic value or any compensation besides the official's regular salary and benefits, other than as required or permitted by law or in the performance of his or her official duties, for any service which is significantly related to the duties, programs, or operations of the public official's position.[8]

(5) A public official should not hire or supervise a member of the public official's immediate family in carrying out official State duties. However, nothing in this section is intended to prohibit the continued employment of a member of the official's family who currently works for or is supervised by the official. Furthermore, this section is not intended to hinder normal promotional advancements for such employee if that employment predates the election, employment, or appointment of the public official. A public official should recuse himself or herself from any decision involving the promotion, discipline, discharge, or assignment of work to his or her immediate family member.

(6) A public official should not use public funds, time, personnel, or other state-provided resources for the private gain or political purpose of the official or that of another person, unless otherwise authorized by law.

(7) A public official should not request, receive, or agree to receive anything of value based upon any explicit understanding, or any reasonably inferred understanding, that his or her vote, opinion, judgment, or action will be influenced thereby.[9]

ARTICLE 4
COMPENSATION AND GIFTS

(1) A public official should not accept any gratuity or compensation for the performance of his or her duties, other than his or her official salary and allowances or as otherwise authorized by law.[10]

(2) A public official should not solicit, receive, or accept a gift, favor, or service from any entity or individual which has a matter before the public official or the public official's direct authority, under circumstances where it could reasonably be inferred that such gift would influence the official in the discharge of his or her duties.[11]

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[6] Derived from TN Senate Rules-85, Art. II, § 2(a)(1).
[7] Derived from TN Senate Rules-85, Art. II, § 2(c)(4).
[8] Derived from TN Senate Rules-85, Art. II, § 2(c)(1).
[9] Derived from TN Senate Rules-85.,Art. II, § 2(a)(3) & (4)
[10] T.C.A .§ 2-10-123(a) and TN Senate Rules-85, Art. II, § 2 (a)(2).
[11] Derived from TN Senate Rules-85, Art. II, §2 (a)(3).

(3) A public official, pursuant to T.C.A. §§ 3-6-304 and 305, may not solicit or accept, directly or indirectly, a gift from an employer of a lobbyist or a lobbyist, as defined in T.C.A. §§ 3-6-301(8) and (17), unless there is a clear exception prescribed elsewhere by law. It is the public official's duty to insure that he or she becomes, and remains, knowledgeable about the ethics laws and the gift ban restrictions.[12]

[12] T.C.A. §§ 3-6-304 and 305.

SECTION 3

ETHICS STATUTES

Comprehensive Governmental Ethics Reform Act of 2006
West's Tennessee Code Annotated

Title 2. Elections
Chapter 10. Campaign Finances
Part 1. Financial Disclosure

2-10-122. Definitions for §§ 2-10-123 -- 2-10-128.

As used in this section and §§ 2-10-123 -- 2-10-128, unless the context otherwise requires:

(1) "Consulting services" with respect to an official in the legislative branch or an official in the executive branch means services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to Tennessee state government. "Consulting services" with respect to an official in the legislative branch or an official in the executive branch also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the state of Tennessee. "Consulting services" does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

(2) "Consulting services" with respect to an elected municipal or county official, including a member-elect of a municipal or county legislative body, means services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official. "Consulting services" with respect to an elected municipal or county official, including a member-elect of a municipal or county legislative body, also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality or county represented by that official. "Consulting services" does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

(3) "Fee, commission, or any other form of compensation" and "compensation" do not include anything of value that may be accepted under § 2-10-116 or that is identified in § 3-6-305(b);

(4) "Official in the executive branch" means the governor, any member of the governor's staff or any person in the executive service as such term is defined in § 8-30-202; provided, however, that "official in the executive branch" shall not include members of boards and commissions who receive only expenses or a nominal per diem not to exceed six hundred dollars ($600) per month, unless they provide consulting services for compensation with respect to the activities of the board or commission of which they are a member; and

(5) "Official in the legislative branch" has the same meaning as the term is defined in § 3-6-301.

2-10-123. Violations at state level – Penalties.

(a) It is an offense for any member of the general assembly, member-elect of the general assembly, governor, member of the governor's staff, secretary of state, treasurer, or comptroller of the treasury to knowingly receive a fee, commission or any other form of compensation for consult-

ing services from any person or entity, other than compensation paid by the state, a county or municipality.

(b) It is an offense for any person or other entity, other than the state, a county or a municipality, to pay a fee, commission or any other form of compensation for consulting services to a person such person or entity knows to be a member of the general assembly, member-elect of the general assembly, governor, member of the governor's staff, secretary of state, treasurer, or comptroller of the treasury.

(c)(1)(A) If conduct giving rise to a violation of the provisions of this section would also constitute the offense of bribery prohibited by § 39-16-102, then such violation is a Class C felony. Any person convicted of such offense shall forever afterwards be disqualified from holding any office under the laws or constitution of this state.

(B) Nothing contained within this section shall be construed to prohibit prosecution and conviction for the Class C felony offense of bribery of a public servant, set forth in § 39-16-102; nor shall it be construed to prohibit prosecution and conviction for any other applicable criminal offense.

(2) Any other violation of this section is a Class A misdemeanor. Any person convicted of such offense shall forever afterwards be disqualified from holding any office under the laws or constitution of this state.

2-10-124. Violations at local level – Penalties.

(a) It is an offense for any member of a municipal or county legislative body, member-elect of a municipal or county legislative body, or other elected county or municipal official to knowingly receive a fee, commission or any other form of compensation for consulting services, other than compensation paid by the state, a county, or municipality.

(b) It is an offense for any person or other entity, other than the state, a county, or a municipality, to pay a fee, commission or any other form of compensation for consulting services relating to a municipality or county if such person or entity knows the person to whom the compensation is paid is a member of the municipal or county legislative body, a member-elect of the municipal or county legislative body, or other elected municipal or county official in the county or municipality in which the consulting services are to be performed.

(c)(1)(A) If conduct giving rise to a violation of this section would also constitute the offense of bribery prohibited by § 39-16-102, then such violation is a Class C felony. Any person convicted of such offense shall forever afterwards be disqualified from holding any office under the laws or constitution of this state.

(B) Nothing contained within this section shall be construed to prohibit prosecution and conviction for the Class C felony offense of bribery of a public servant, set forth in § 39-16-102; nor shall it be construed to prohibit prosecution and conviction for any other applicable criminal offense.

(2) Any other violation of this section is a Class A misdemeanor. Any person convicted of such offense shall forever afterwards be disqualified from holding any office under the laws or

constitution of this state.

2-10-125. Disclosure of contract for consulting services to the Tennessee ethics commission.

(a) If any person or other entity, other than the state, a county or municipality, contracts to pay a fee, commission or any other form of compensation for consulting services to any staff person or employee of the general assembly; member of a commission established by and responsible to the general assembly or either house of the general assembly; member or employee of a state regulatory commission, including, without limitation, commissioners of the Tennessee public utility commission; or member or employee of any executive department or agency or other state body in the executive branch, then such person or entity shall disclose the following to the Tennessee ethics commission:

(1) The person to whom the fee was paid;

(2) The position of the person to whom the fee was paid;

(3) The amount of the fee;

(4) The date the services were rendered; and

(5) A general description of the services rendered.

(b) The disclosure shall be on a form designed by the Tennessee ethics commission, shall be made under oath, and shall contain a statement that a false statement on the report is subject to the penalties of perjury. A disclosure form shall be filed within five (5) days of entering into any contract for consulting services. Such form shall be updated quarterly. The dates for filing the quarterly reports shall be determined by the Tennessee ethics commission.

(c) All disclosures made to the commission pursuant to this section are public records and open for inspection during regular business hours.

(d)(1) It is a Class C misdemeanor for any person or entity to knowingly fail to file a disclosure form as required by this section.

(2) It is a Class C misdemeanor for any person or entity to file a disclosure form required by this section more than thirty (30) days after the date on which the report is due.

2-10-126. Disclosure of fees, commissions or any other form of compensation for consulting services to the Tennessee ethics commission.

(a) Any staff person or employee of the general assembly; member of a commission established by and responsible to the general assembly or either house of the general assembly; member or employee of a state regulatory commission, including, without limitation, commissioners of the Tennessee public utility commission; or member or employee of any executive department or agency or other state body in the executive branch, who contracts to receive a fee, commission or any other form of compensation for consulting services from a person or

entity other than the state, a county or municipality, shall be required to make the same disclosure required by § 2-10-125. The Tennessee ethics commission may devise a new form for disclosure of consulting fees or may modify the one required by § 2-10-125 for use by all parties required to disclose.

(b) All disclosures made to the commission pursuant to this section are public records and open for inspection during regular business hours.

(c) The disclosure shall be on a form designed by the Tennessee ethics commission, shall be made under oath, and shall contain a statement that a false statement on the report is subject to the penalties of perjury. A disclosure form shall be filed within five (5) days of entering any contract for consulting services. Such form shall be updated quarterly. The dates for filing the quarterly reports shall be determined by the Tennessee ethics commission.

(d)(1) It is a Class C misdemeanor for any person or entity to knowingly fail to file a disclosure form required by this section.

(2) It is a Class C misdemeanor for any person or entity to file a disclosure form required by this section more than thirty (30) days after the date on which the report is due.

2-10-127. Reports by members of the general assembly, members-elect of the general assembly, governor, members of the governor's staff, secretary of state, treasurer, or comptroller of the treasury regarding siblings, spouses or children who are lobbyists.

(a) Any person subject to the prohibition in § 2-10-123(a), whose sibling, spouse or child is required to register as a lobbyist under § 3-6-302, shall report in writing, on a form developed by the Tennessee ethics commission:

(1) The name of the person making the disclosure and such person's business address;

(2) The name and business address of the sibling, spouse or child;

(3) The position of the sibling, spouse or child; and

(4) The name and address of each person for whom the sibling, spouse or child registers for the purpose of lobbying.

(b) The report shall be filed with the commission annually no later than February 1.

(c) Each person subject to the prohibition in § 2-10-123(a) shall file a supplementary report with the Tennessee ethics commission that includes a complete description of any information that has changed from the information supplied in the last registration form or last report. Such supplementary reports shall be filed within ten (10) days of any such change.

(d)(1) A person subject to the prohibition in § 2-10-123(a) shall declare before taking a legislative or administrative action on any matter: "It may be considered that I have a degree of personal interest in the subject matter of this bill or action, but I declare that my argument and my ultimate vote answer only to my conscience and to my obligation to my constituents and the citizens of the state of Tennessee," if:

(A) The person is employed by a business entity that employs a lobbyist, and such lobbyist is employed by the business entity to lobby such legislative or administrative action; or

(B) The matter is lobbied by a sibling, spouse or child of the person subject to the prohibition in § 2-10-123(a).

(2) The person may alternatively state that the person is declaring a potential conflict of interest, in accordance with this section, or indicate the conflict via the voting board in the chamber of the house of representatives or the senate.

(e) The report shall be made under oath and shall contain a statement that a false statement on the report is subject to the penalties of perjury.

(f) All disclosures made to the commission pursuant to this section are public records and open for inspection during regular business hours.

(g) Failure to file a report required by this section is a Class C misdemeanor.

2-10-128. Disclosures required of members of the general assembly

(a) Each member of the general assembly and the member's spouse shall annually report in writing to the Tennessee ethics commission, prior to April 15, the following information for the prior calendar year:

(1) The major source or sources of private income of more than two hundred dollars ($200), including, but not limited to, offices, directorships, and salaried employments of the person making disclosure, and such person's spouse, but no dollar amounts need be stated. The disclosure shall state the name and address of any entity that provides a source of private income of more than two hundred dollars ($200). This subdivision (a)(1) shall not be construed to require the disclosure of any client list or customer list, nor the address of any investment property. When reporting private income received from a security listed on the New York Stock Exchange, American Stock Exchange or the Nasdaq, the disclosure may state only the name of the entity, in lieu of disclosing the name and address of the entity. If a member or spouse's ownership of a business enterprise's securities provides income of more than two hundred dollars ($200), then the business enterprise shall be named in lieu of any investment brokerage firm or other fiduciary that may possess or manage the securities on behalf of the member or spouse. If a member or spouse's ownership of shares of a mutual fund provides income of more than two hundred dollars ($200), then the mutual fund shall be named in lieu of the business enterprises whose securities are owned by the mutual fund. For purposes of this subdivision (a)(1), income shall be reported for the calendar year in which it is received. When reporting private income received from investments with a federal or state chartered bank, the disclosure may state only the name of the bank, in lieu of stating the name and address of the bank;

(2) Any positions held during the applicable reporting period, including, but not limited to, those of an officer, director, trustee, general partner, proprietor, or representative of any corporation, firm, partnership, or other business enterprise, or any non-profit organization or educational institution. Both the year and month must be reported for the period of time the position was held. Positions with the federal government, religious, social, fraternal, or political entities, and those

solely of an honorary nature do not require disclosure; and

(3) Any trust considered to be a "blind trust" pursuant to § 35-50-120 to which a member or the member's spouse is an interested party. The person making disclosure shall state that the person is an interested party to a blind trust and provide the name and address of the trustee of the trust. Notwithstanding any provisions of this subdivision (a)(3) to the contrary, the person making disclosure is not required to disclose any individual asset held in a blind trust.

(b) The reports in subsection (a) shall be posted on the web site of the Tennessee ethics commission. The Tennessee ethics commission shall modify existing forms to accomplish the purposes of this section.

(c) The commission shall create a consolidated form that provides for the disclosure of the information required to be reported by this section and § 8-50-502. Any person who is required to disclose information pursuant to this section and § 8-50-501 who files the consolidated form in a manner that complies with the requirements of those sections shall fulfill the requirements of this section and § 8-50-501. Filing the consolidated form prior to April 15 as required by this section shall also fulfill the requirements of §§ 8-50-503 and 8-50-504.

2-10-129. Disclosure of fees paid to a member of the general assembly or the member's spouse for services performed outside of the state

(a)(1) If any person or other entity that contracts with the state of Tennessee, pays more than a two hundred dollar ($200) fee, commission or other form of compensation, to a member of the general assembly or a member's spouse, for consulting services on contracts to which the state of Tennessee is not a party, and for which such consulting services are to be rendered outside the state of Tennessee, then such person or entity shall disclose the following to the Tennessee ethics commission:

(A) The name and address of the person or entity paying the fee, commission or other form of compensation;

(B) The person to whom the fee, commission or other form of compensation was paid, including the amount paid;

(C) The position of the person to whom the fee, commission or other form of compensation was paid;

(D) The date the services were rendered; and

(E) A general description of the services rendered.

(2) As used in this subsection (a), "consulting services" means services performed outside the state of Tennessee, which would be defined as "influencing legislative or administrative action", in § 3-6-301, if such services were performed in the state of Tennessee. "Consulting services" also includes services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with a state other than the state of Tennessee.

(b) The disclosure shall be on a form designed by the Tennessee ethics commission, shall be

made under oath, and shall contain a statement that a false statement on the report is subject to the penalties of perjury. A disclosure form shall be filed within five (5) days of entering into a contract not involving the state of Tennessee with a member of the general assembly. Such form shall be updated annually, no later than February 1, if necessary.

(c) All disclosures made to the commission pursuant to this section are public records, and are open for inspection during regular business hours.

(d)(1) It is a Class C misdemeanor for any person or entity to knowingly fail to file a disclosure form as required by this section.

(2) It is a Class C misdemeanor for any person or entity to file a disclosure form required by this section more than thirty (30) days after the date on which the report is due.

2-10-130. Disclosure of fees, commissions or other compensation for consulting services paid to the governor, secretary of state, comptroller of the treasury, treasurer, governor's cabinet, cabinet level staff, or their spouses.

(a) If any person or other entity that contracts with the state of Tennessee, pays more than a two hundred dollar ($200) fee, commission or other form of compensation, to the governor, secretary of state, comptroller of the treasury, treasurer, any member of the governor's cabinet, any cabinet level staff, or such persons' spouses, for consulting services on contracts to which the state of Tennessee is not a party, and for which consulting services are to be rendered outside the state of Tennessee, then the person or entity shall disclose the following to the Tennessee ethics commission:

(1) The name and address of the person or entity paying the fee, commission or other form of compensation;

(2) The person to whom the fee, commission or other form of compensation was paid, including the amount paid;

(3) The position of the person to whom the fee, commission or other form of compensation was paid;

(4) The date the services were rendered; and

(5) A general description of the services rendered.

(b) As used in this section, "consulting services" means services performed outside the state of Tennessee that would be defined as influencing legislative or administrative action, in § 3-6-301, if those services were performed in the state of Tennessee. "Consulting services" also includes services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with a state other than the state of Tennessee.

(c) The disclosure shall be on a form designed by the Tennessee ethics commission shall be made under oath, and shall contain a statement that a false statement on the report is subject to the penalties of perjury. A disclosure form shall be filed within five (5) days of entering into a contract not involving the state of Tennessee with persons subject to subsection (a). The form

shall be updated annually, no later than February 1, if necessary.

(d) All disclosures made to the commission pursuant to this section are public records, and are open for inspection during regular business hours.

(e)(1) It is a Class C misdemeanor for any person or entity to knowingly fail to file a disclosure form as required by this section.

(2) It is a Class C misdemeanor for any person or entity to file a disclosure form required by this section more than thirty (30) days after the date on which the report is due.

Title 3. Legislature
Chapter 6. Lobbying
Part 1. Tennessee Ethics Commission Act of 2006--Ethics Commission

3-6-101. Short title.

Parts 1 and 2 of this chapter shall be known and may be cited as the "Tennessee Ethics Commission Act of 2006".

3-6-102. Legislative intent.

It is the intent of the general assembly that the integrity of the processes of government be secured and protected from abuse. The general assembly recognizes that a public office is a public trust and that the citizens of Tennessee are entitled to a responsive, accountable, and incorruptible government. The Tennessee ethics commission is established to sustain the public's confidence in government by increasing the integrity and transparency of state and local government through regulation of lobbying activities, financial disclosure requirements, and ethical conduct. A determination of the intent of the general assembly shall be based on the operative statutory provisions, as well as the legislative history pertaining to such statutory provisions, as evidenced by legislative committee and floor actions, discussions and debates.

3-6-103. Creation – Composition – Staff – Selection of members – Terms – Meetings.

(a)(1) There is created as a division of the bureau of ethics and campaign finance, as provided in title 4, chapter 55, a Tennessee ethics commission. The commission shall be composed of six (6) members appointed as provided in this section.

(2)(A) Appointments shall be made to reflect the broadest possible representation of Tennessee citizens. Of the six (6) members appointed, at least one (1) shall be a female member and one (1) shall be an African-American member. However, an African-American female member shall not satisfy the requirement of one (1) female member and one (1) African-American member. Each member shall:

(i) Have been a legal resident of this state for five (5) years immediately preceding selection;

(ii) Be at least thirty (30) years of age;

(iii) Be a registered voter in Tennessee;

(iv) Be a person of high ethical standards who has an active interest in promoting ethics in government; and

(v) Not have been convicted of a felony.

(B) No person shall be appointed to the commission if the person, or any member of the person's immediate family as defined in § 3-6-301, is announced as a candidate for public office, holds public office, or is a member of a political party's state executive committee.

(b) The members of the ethics commission shall also serve as members of the board of directors of the bureau of ethics and campaign finance.

(c)(1) The members of the Tennessee ethics commission shall be selected as follows:

(A) The governor shall appoint one (1) member who is a member of the majority party and one (1) member who is a member of the minority party;

(B) The speaker of the senate shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the senate and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the senate. The speaker of the senate may request a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates; and

(C) The speaker of the house of representatives shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the house of representatives and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the house of representatives. The speaker of the house of representatives may request a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates.

(2) Each gubernatorial appointee shall be subject to confirmation by a two-thirds (2/3) vote of approval by each house of the general assembly and each legislative appointee shall be subject to confirmation by a two-thirds (2/3) vote of approval by the appointing authority's house. If the general assembly is in session when an appointment is made, then the appointment shall be subject to confirmation within thirty (30) days of appointment. If the general assembly is not in session when an appointment is made, the appointment shall be subject to confirmation within thirty (30) days after the general assembly next convenes following the appointment. If an appointee is refused confirmation, or is not confirmed during the thirty (30) day period, then the appointing authority of the appointee shall select another appointee for confirmation subject to the requirements of this section. Vacancies shall be filled in the same manner as the vacating member's office was originally filled. Notwithstanding this subdivision (c)(2), an appointment to serve on the initial commission shall be made by April 1, 2006.

(d)(1) The initial members' terms of office shall commence upon appointment. For purposes of calculating the initial terms of the members' offices, the initial appointments shall be deemed to be made on January 1, 2007. The initial members' terms shall be staggered as follows:

(A) The gubernatorial appointees shall serve initial terms of two (2) years;

(B) The senate appointees shall serve initial terms of three (3) years; and

(C) The house of representatives appointees shall serve initial terms of four (4) years.

(2) After the initial terms, members of the commission shall serve four-year terms and are eligible to serve two (2) four-year terms in succession.

(e) The initial chair of the commission shall be appointed by the governor. Every year thereafter the commission shall elect a chair from among its membership. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings

and shall have all the powers and privileges of the other members.

(f) The commission shall fix the place and time of its regular meetings by order duly recorded in its minutes. Four (4) members of the commission shall constitute a quorum. Except as provided in § 3-6-201, four (4) affirmative votes are required for any commission action. Special meetings shall be called by the chair on the chair's initiative or upon the written request of three (3) members. Members shall receive written notice three (3) days in advance of a special meeting. Notice shall be served personally or left at a member's usual place of residence and shall specify the purpose, time and place of the meeting. No matters unrelated to the specified purpose may be considered without a specific waiver by all members of the commission.

(g) The members of the commission shall receive no compensation; provided, that each member of the commission shall be eligible for reimbursement of expenses and mileage in accordance with the regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h) No member of the commission or the member's immediate family, as defined in § 3-6-301, shall during such membership:

(1) Be allowed to hold or qualify for elective office to any state or local public office, as defined in § 2-10-102;

(2) Be an employee of the state or any political subdivision of the state;

(3) Be an officer of any political party or political committee;

(4) Permit such person's name to be used or make campaign contributions in support of or in opposition to any candidate or proposition, except that a member's immediate family may make campaign contributions in support of or in opposition to any candidate or proposition;

(5) Participate in any way in any election campaign;

(6) Lobby or employ a lobbyist; or

(7) Be employed by any elected officeholder, either in an official capacity or as an individual, or be employed by any business in which an elected officeholder has any direct input concerning employment decisions.

(i) An incumbent member of the commission may seek votes for confirmation of the member's appointment to the commission; provided, that the member shall comply with the provisions of subsection (h).

(j) Subsection (h) shall be applicable for one (1) year subsequent to the removal, vacancy or termination of the term of office of a member of the commission.

(k)(1) Each member of the commission shall, before they proceed to business, take an oath or affirmation to support the constitution of this state and of the United States and the laws of this state and also the following oath: I_____do solemnly swear (or affirm) that as a member of this commission, I will, in all matters, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any action, measure, or resolution which shall appear to me to be contrary to law.

(2) Unless otherwise provided by law, any member of the commission who violates the oath of office for the member's position or participates in any of the activities prohibited by this chapter commits a Class A misdemeanor. If a sworn complaint is made pursuant to § 3-6-209 that a member has violated the oath of office for the position, has participated in any of the activities prohibited by this chapter, or has committed actions inconsistent with the intent of the Comprehensive Governmental Ethics Reform Act of 2006, Acts 2006, ch. 1 of the extraordinary session of the 104th general assembly, then, upon a unanimous vote of the remaining members, the member against whom the sworn allegation is made may be suspended from the commission for such purposes and for such times as the remaining members shall unanimously determine; but no such suspension shall extend beyond final disposition of the sworn complaint pursuant to § 3-6-209. The accused member shall not participate in the suspension vote.

3-6-104. [Repealed.]

3-6-105. Jurisdiction of commission – Referral of complaints.

(a) The Tennessee ethics commission is vested with jurisdiction to administer and enforce this chapter, §§ 2-10-115 and 2-10-122 – 2-10-130 and title 8, chapter 50, part 5.

(b) In addition to the jurisdiction vested in subsection (a), with respect to members of the general assembly, the commission also has jurisdiction to investigate, in accordance with § 3-6-203, complaints alleging acts by a member of the general assembly that constitute misuse of office for personal financial gain; provided, however, that, if a member of the general assembly makes the declaration required by § 2-10-127(d), then the member shall not be deemed to have misused the member's office for personal financial gain based solely upon the member's relationship to a sibling, spouse or child who lobbied for or against the legislative action.

(c) The ethics committee in each house is authorized to refer to the commission for investigation, in accordance with § 3-6-203, any complaint it receives alleging a violation of this chapter, §§ 2-10-115 and 2-10-122 – 2-10-130, title 8, chapter 50, part 5, or misuse of legislative office for personal financial gain.

(d) The governor is authorized to refer to the commission for investigation, in accordance with § 3-6-203, any allegation the governor receives concerning a violation by an officer or staff member of the executive branch subject to the jurisdiction of the commission, pursuant to this chapter; §§ 2-10-115 and 2-10-122 – 2-10-130, title 8, chapter 50, part 5, an executive order related to ethics; or misuse of office for personal financial gain.

(e) The commission shall refer to the registry of election finance for investigation and appropriate action any complaint filed with the commission that is within the jurisdiction of the registry.

(f) The commission is vested with jurisdiction over any violation of the laws administered and enforced by the commission, or any alleged violation referred to the commission pursuant to this section, that occurs within five (5) years prior to the filing of a complaint alleging a violation.

3-6-106. Duties of the commission and the attorney general and reporter

(a) The duties of the Tennessee ethics commission include the following:

(1) Recommend guiding principles of ethical conduct for consideration and adoption by the legislative or executive branches. The commission shall publish the guiding principles on the commission's web site. Guiding principles of ethical conduct may be recommended for each of the following classifications:

(A) Members of the general assembly;

(B) The governor, secretary of state, treasurer, comptroller of the treasury, members of the governor's cabinet, and cabinet level staff within the governor's office; and

(C) Lobbyists and employers of lobbyists;

(2) Develop filing, coding and cross-indexing systems;

(3) Make as many documents filed available for viewing on the Internet as is reasonable based on the commission's financial resources, and make each document filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the documents; provided, that this subdivision (a)(4) does not apply to those documents required to be confidential pursuant to § 3-6-202;

(4) Review all filed documents to ensure compliance with the laws administered and enforced by the commission. Statements filed with the commission for more than two (2) years shall be deemed to be sufficient, absent a showing of fraud or the existence of an ongoing investigation related to the statement;

(5) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;

(6) Prepare and publish on the commission's web site reports as are deemed to be appropriate and in the public interest by the commission, including quarterly reports listing alphabetically all registered lobbyists and employers of lobbyists, as defined in part 3 of this chapter;

(7) Prepare and publish manuals and guides to facilitate compliance with, and enforcement of, the laws administered and enforced by the commission;

(8) Administer ethics training as provided in this part;

(9) Provide an annual report to the governor and the general assembly by February 1 concerning the administration and enforcement of laws under the jurisdiction of the commission, including the necessity, or lack of necessity, for any additional action or additional legislation that will serve to further the purposes of this chapter;

(10) Investigate any alleged violation, upon sworn complaint or upon its own motion, as provided in § 3-6-201; and

(11) Preserve all filed reports or statements for a period of at least five (5) years from the date of receipt, or longer when there is a pending investigation by the commission or any law enforce-

ment agency, or when there is an ongoing administrative or judicial proceeding related to the information.

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the commission upon the request of the executive director or the commission.

3-6-107. Powers of the commission.

The Tennessee ethics commission possesses power to:

(1) Subpoena witnesses, compel their attendance and testimony, conduct audits, administer oaths, take evidence and require, by subpoena duces tecum, the production of books, papers, records or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation;

(2) Issue written advisory opinions to any person subject to the jurisdiction of the commission in accordance with § 3-6-117 and § 3-6-308(a)(4). When issuing any advisory opinion or any other interpretive document, the commission shall review and consider all operative statutory provisions, as well as the legislative history pertaining to the statutory provisions, as evidenced by legislative committee and floor actions, discussions and debates;

(3) Request legal and investigative assistance from the office of the attorney general and reporter;

(4) Conduct a hearing to determine if an actual violation has occurred;

(5) Issue an appropriate order following a determination of an actual violation;

(6) Assess and collect late filing fees in amounts provided by statute;

(7) Assess and collect a civil penalty as provided in this chapter, title 8, chapter 50, part 5, and rules promulgated pursuant to this chapter and title 8, chapter 50, part 5; provided, that the commission shall only have the power to assess a civil penalty after notice and opportunity for hearing; and

(8) Seek injunctive relief in the chancery court of Davidson County to prevent continuing violations of this chapter.

3-6-108. Prospective application of chapter.

For the purposes of enforcement, this chapter shall be prospective only, and the Tennessee ethics commission shall limit its investigations to acts or omissions that occur on or after October 1, 2006.

3-6-109. Referral of criminal violations to law enforcement.

Where the results of an investigation indicate a criminal violation has occurred, the commission

shall refer the matter to the appropriate law enforcement agency.

3-6-110. Authority to petition for an order of enforcement.

The Tennessee ethics commission has the authority to petition the chancery court, through the attorney general and reporter or its own legal counsel, for enforcement of any order it has issued. The court's order of enforcement has the same force and effect as a civil judgment.

3-6-111. [Repealed.]

3-6-112. Annual ethics course for supervisory personnel in the executive branch -- Manuals and guides.

(a) The Tennessee ethics commission shall provide an annual ethics course concerning compliance with the laws administered and enforced by the commission for supervisory personnel in the executive branch of state government. The commission shall notify administrative departments and divisions in advance of the time and location of the course. The course may be offered on multiple occasions in locations that will make attendance by personnel in the three (3) grand divisions reasonably convenient. The ethics course shall include, but not be limited to, discussion of relevant laws, administrative regulations, advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Administrative departments and divisions shall annually select appropriate supervisory personnel and shall communicate the name, position, and contact information of each individual required to attend the annual course to the commission prior to February 1.

(c) In addition to any other manuals or guides prepared and published by the commission, the commission shall provide a manual for supervisory personnel of the executive branch that includes ethics statutes and administrative regulations relevant to such personnel, explanations of purposes and principles underlying the laws, explanations of technical and specific legal requirements, examples of practical applications of the laws and principles, a question-and-answer section regarding common problems and situations, summaries of advisory opinions, and any other information that would inform supervisory personnel of the executive branch about ethics laws and regulations and assist them in applying those laws and regulations to specific situations. The manual may be distributed to supervisory personnel, and shall be made available to the public, by posting the manual in pdf format on the commission's web site.

3-6-113. Annual orientation ethics course and current issues course for members of the general assembly – Manuals and guides.

(a) The Tennessee ethics commission shall provide an annual orientation ethics course concerning compliance with the laws administered and enforced by the commission for members of the general assembly who have not yet taken the orientation ethics course and shall offer an annual current issues course for members of the general assembly who have taken the orientation course. Such courses shall be offered on a date or dates when the general assembly is in session. The commission shall notify members in advance of the time and location of the courses.

(1) The orientation ethics course shall include, but not be limited to, laws administered and en-

forced by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, summaries of advisory opinions, underlying purposes and principles of ethics laws, examples of practical applications of ethics laws, and a question-and-answer participatory segment regarding common problems and situations.

(2) The current issues course shall include, but not be limited to, discussion of changes in relevant laws, administrative regulations, new advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Members of the general assembly shall attend the courses provided by the commission pursuant to subsection (a). However, a member may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the current issues course requirement.

(c) In addition to any other manuals or guides prepared and published by the commission, the commission shall provide a manual for members of the general assembly that includes ethics statutes and administrative regulations relevant to members, explanations of purposes and principles underlying the laws, explanations of technical and specific legal requirements, examples of practical applications of the laws and principles, a question-and-answer section regarding common problems and situations, summaries of advisory opinions, and any other information that would inform members about ethics laws and regulations and assist them in applying those laws and regulations to specific situations. The manual may be distributed to members of the general assembly, and shall be made available to the public, by posting the manual in pdf format on the commission's web site.

3-6-114. Annual ethics course for lobbyist and employers of lobbyists –Manuals and guides.

(a) The Tennessee ethics commission shall provide an annual ethics course on multiple dates, both when the general assembly is in session and when the general assembly is not in session for both lobbyists and employers of lobbyists. The training may be offered electronically. Training shall include, but not be limited to, laws administered and enforced by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, and summaries of advisory opinions. The commission shall impose a fee for attending the ethics course that will enable participation in the course to be funded from the fee.

(b) Each lobbyist shall attend one (1) ethics course annually. A lobbyist may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the ethics course requirement. A lobbyist may also attend one (1) of the annual ethics courses provided for members of the general assembly pursuant to § 3-6-113 in lieu of the course described in this section.

(c) In addition to any other manuals or guides prepared and published by the commission, the commission shall provide a manual for lobbyists and employers of lobbyists that includes ethics statutes and administrative regulations relevant to lobbyists and employers of lobbyists, explanations of purposes and principles underlying the laws, explanations of technical and specific legal requirements, examples of practical applications of the laws and principles, a question-and-answer section regarding common problems and situations, summaries of advisory opinions, and any other information that would inform lobbyists and employers of lobbyists about ethics laws

and regulations and assist them in applying those laws and regulations to specific situations. The manual may be distributed to lobbyists and employers of lobbyists, and shall be made available to the public, by posting the manual in pdf format on the commission's web site.

3-6-115. Electronic filing and registration system

(a) Notwithstanding any other law to the contrary, the Tennessee ethics commission shall:

(1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based electronic filing process for use by all persons that are required to electronically register or file statements and reports with the commission pursuant to this chapter, §§ 2-10-115 and 2-10-122 – 2-10-130 and title 8, chapter 50, part 5;

(2) Develop, with the advice, assistance and approval of the office of information resources, a system that provides each person required to register or file statements and reports with the commission secure access to the electronic registration and filing system. The system shall provide adequate safeguards to prevent unauthorized persons from inappropriately tampering with or changing the data and shall provide for secure authentication safeguards for documents such as electronic signatures and electronic notarization;

(3) Provide training to each person required to register or file statements and reports with the commission on the use of the electronic filing system;

(4) Make, with the advice, assistance and approval of the office of information resources, electronically filed reports and statements available for viewing on the commission's web site in a format that is searchable and that may be downloaded and managed by a user with appropriate software; provided, that this subdivision (a)(4) does not apply to those documents required to be confidential pursuant to § 3-6-202. In addition to any other method of information management developed by the commission, conflict of interest disclosures shall be indexed and searchable by county; and

(5) Beginning on October 1, 2006, with the advice, assistance and approval of the office of information resources, provide the public access to lists compiled from the registrations and other documents filed by employers of lobbyists, lobbyists, and persons required to file conflict of interest disclosures. In addition, the commission shall provide assistance to anyone seeking to access this information on the Internet.

(b) The commission, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

(c) The commission shall, with the advice, assistance and approval of the office of information resources, implement the electronic filing system for use by October 1, 2006. Any person required to electronically file statements and reports with the commission shall file required statements and reports electronically on or after October 1, 2006. Any required statements and reports filed with the registry of election finance prior to October 1, 2006, shall continue to be filed with the registry until such date.

(d) All information entered by any person required to file statements and reports electronically with the commission shall remain confidential until the information is submitted to the commis-

sion.

(e) The commission shall strive to establish electronic filing for all documents required to be filed with the commission; provided, however, that no candidate or appointee to a local public office, as defined in § 2-10-102, shall be required to electronically file documents with the commission.

(1) Except as provided in this subsection (e), the commission, unless otherwise required by law to provide for electronic filing, shall have the discretion to determine when electronic filing is financially feasible and will be an accessible and efficient method of filing.

(2) The commission shall establish rules specifying the manner in which a report, statement or other documents shall be filed. The rules shall be published and posted conspicuously on the commission's web site at least sixty (60) days prior to the due date of any document affected by the rules.

3-6-116. Training program for members of the commission.

(a) A person who is appointed to the Tennessee ethics commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program provided by the office of the attorney general and reporter that complies with this section. This section shall not apply to members who are reappointed to the commission for a subsequent term.

(b) The training program shall provide the person with information regarding:

(1) The legislation that created the commission;

(2) The role and function of the commission;

(3) The rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(4) The current budget for the commission;

(5) The results of the most recent formal audit of the commission;

(6) The requirements of the laws administrated and enforced by the commission; and

(7) Any applicable policies adopted by the commission.

(c) A person appointed to the commission is entitled to reimbursement for expenses incurred in attending the training program.

3-6-117. Exclusive authority to issue formal advisory opinions.

(a) The commission is the only entity authorized to issue formal advisory opinions. All opinions that deal with any statutory provision or provisions that are in any way subject to interpretation, unclear or uncertain, or subject to dispute as to their meaning or application are formal advisory opinions. With respect to an issue addressed in a formal advisory opinion, any person who con-

forms that person's behavior to the requirements of the advisory opinion shall not be sanctioned if it is later determined that the advisory opinion did not correctly interpret the statute. A person who requests an advisory opinion shall be entitled to withdraw the request at any time before the opinion is issued, in which case the commission shall not issue the opinion.

(b)(1) Except as provided in this subsection (b), under no circumstances shall a person performing staff duties as an employee of the commission have the authority to issue an advisory opinion, including an informal response.

(2) A person performing staff duties as the executive director or as an attorney is authorized to give informal responses to any person subject to the jurisdiction of the commission in accordance with this subsection (b).

(3) The commission shall make and keep records of all inquiries and all informal responses given, including the name and position of the person making the inquiry, the entity, if any, on behalf of which the inquiry is made, the date of the inquiry, the person responding to the inquiry, the precise inquiry, including the facts and background information provided and the section or sections of statute involved, and the answer or response given.

(4) The commission shall compile all of the information in subdivision (b)(3), which shall include a mechanism to ascertain the responses to all inquiries about the same statutory section, so that the responses will be consistent or can be prudently revised if necessary.

(5)(A) An informal response may be given verbally or by electronic mail. Any verbal informal response shall be verified by electronic mail. Whether or not a request for an informal response is answered verbally, all informal responses shall be issued by electronic mail to the person who made the request, with a copy to the members of the commission. Each informal response shall:

(i) Set forth the facts and background information of the inquiry;

(ii) Cite the relevant operative statutory section or sections and the language in the section or sections on which the response is based; and

(iii) Refer to any relevant advisory opinions issued by the commission that relate to the inquiry.

(B) The informal response shall be based on such information, the operative provisions of the cited statute and the legislative history pertaining to the statutory provisions, as evidenced by legislative committee and floor actions, discussions and debates. In addition, the informal response shall indicate whether the statute and any previous opinions are clear or unclear on the issue.

(6) If the person who requested the informal response conforms that person's behavior to the requirements of the informal response, then that person shall not be sanctioned if it is later determined that the informal response was not a correct response or incorrectly interpreted the statutory section or sections or commission advisory opinions on the issue.

(7) Any informal response shall be subject to review or modification by the commission. Any person who disputes the informal response given by the staff employees in subdivision (b)(2) shall have the right to request a formal advisory opinion from the commission.

Title 3. Legislature
Chapter 6. Lobbying
Part 2. Tennessee Ethics Commission Act of 2006--Violations

3-6-201. C omplaints by private citizens or the commission.

(a)(1) Any citizen of Tennessee may file a sworn complaint executed on a form prescribed by the Tennessee ethics commission alleging a violation of laws or rules within the jurisdiction of the commission.

(2) No political party chairman, state or county executive director of a political party, or employee or agent of a political party acting in that person's official capacity may file a complaint with the commission for a violation of laws or rules within the jurisdiction of the commission. Nothing in this section prohibits a private citizen, acting in a private capacity, from filing a sworn complaint with the commission under this section.

(b) A complaint filed under this section shall set forth in simple, concise, and direct statements:

(1) The name of the complainant;

(2) The street or mailing address of the complainant;

(3) The name of each alleged violator;

(4) The position or title of each alleged violator;

(5) A short and plain statement of the nature of the violation and the law or rule upon which the commission's jurisdiction over the violation depends;

(6) A statement of the facts constituting the alleged violation and the dates on which, or period of time in which, the alleged violation occurred; and

(7) All documents or other material available to the complainant that are relevant to the allegation; a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation, but that are not in the possession of the complainant, including the location of the documents, if known; and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the complaint, including the location of the documents, if known.

(c) The complaint shall be accompanied by an affidavit stating that the information contained in the complaint is either correct or that the complainant has good reason to believe and does believe that the violation occurred. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public.

(d) The commission may initiate a complaint upon an affirmative vote that includes three (3) members of the commission who are members of the same party or two (2) members of the commission who are members of different parties.

(e)(1) Any complaint that is filed against a candidate in any election, as defined in § 2-10-102, during the period from thirty (30) days immediately prior to the election through election day shall be considered filed but not verified by the commission. The commission shall take no action relative to the complaint during this thirty-day period. In addition, the commission shall not initiate a complaint during the thirty-day period.

(2) During the thirty-day period, the commission shall stay any proceedings with regard to an ethics complaint filed against a candidate more than thirty (30) days prior to voting for the election; provided, that the candidate may waive the postponement in writing.

(3) For purposes of this subsection (e), any provisions of this chapter setting time periods for initiating a complaint or for performing any other action are considered tolled until after the election at which the candidate stands for elective office.

(f) Within five (5) days after the filing or initiation of a complaint, the commission shall cause a copy of the complaint to be transmitted by return receipt requested mail to the person alleged to have committed the violation.

3-6-202. Confidentiality – Public disclosure.

(a)(1) The members and staff of the Tennessee ethics commission shall preserve the confidentiality of all commission proceedings, including records relating to a preliminary investigation. Such records shall be exempt from the provisions of title 10, chapter 7 and shall be confidential until:

(A) The alleged violator requests in writing that the investigation and associated records and meetings be made public;

(B) The commission finds that probable cause exists to believe that a violation has occurred. Upon this determination, the records and proceedings shall be made public on:

(i) The date the public hearing to determine whether a violation has occurred commences; or

(ii) The date the commission refers a matter based upon a finding of probable cause; or

(C) The commission determines that no probable cause exists to believe that a violation has occurred. Upon such determination, the records and proceedings shall be made public sixty (60) days after:

(i) The date the report of the commission's finding is issued, if the complainant does not request a probable cause hearing pursuant to § 3-6-203(b)(1); or

(ii) The date the commission issues its finding of no probable cause from a probable cause hearing.

(2) No personal or professional financial records of the alleged violator shall be disclosed pursuant to this section upon a finding of no probable cause.

(3) A member of the commission or a member of the commission staff may acknowledge receipt of a complaint or may disclose information to the extent necessary to successfully pursue an in-

vestigation. In no event shall such information against a candidate in any election, as defined in § 2-10-102, be disclosed during the period from thirty (30) days immediately preceding the commencement of voting for that election through election day, unless the candidate requests in writing the disclosure of the information.

(b) A member of the commission or member of the commission staff who knowingly discloses information in violation of this section commits a Class C misdemeanor. A violation of this section also subjects the person to the civil penalties imposed by § 3-6-205(a)(2). Violation of this section by a member of the commission shall be grounds for removal from office.

3-6-203. Preliminary investigation – Referral of sufficient complaint to attorney general – Presentation of evidence of probable cause – Determination of probable cause – Public hearing.

(a) The commission shall initiate a preliminary investigation of each sworn complaint that complies with § 3-6-201. If the commission determines that the sworn complaint does not comply with § 3-6-201, then the commission shall dismiss the complaint and notify the complainant. In the notification sent to the complainant, the commission shall state with particularity why the complaint does not comply with § 3-6-201. If the commission has referred the complaint to the registry of election finance, then the commission shall also notify the complainant of the referral.

(b) The commission shall refer a factually and legally sufficient complaint to the office of the attorney general and reporter, who shall conduct a preliminary investigation. The commission shall make a probable cause determination after the office of the attorney general and reporter completes its investigation and reports its findings to the commission. Both the alleged violator and the complainant shall be entitled, upon request, to present evidence before the commission prior to the commission's probable cause determination. The commission shall have notice that evidence will be presented to the commission personally served upon, or sent by return receipt requested mail, to the alleged violator and the complainant. The commission has discretion to determine the appropriate procedure for the presenting of evidence.

(1) If the commission determines that no probable cause exists to believe a violation of any law or rule administered and enforced by the commission occurred, the commission shall dismiss the complaint by issuing a report to the complainant and the alleged violator, stating with particularity its reasons for dismissal of the complaint. A complainant may request a hearing upon a determination of no probable cause. If after the hearing the commission determines that there is no probable cause, the commission may order the complainant to reimburse the alleged violator for any reasonable costs and reasonable attorney fees the alleged violator has incurred.

(2) If the commission determines that probable cause exists to believe a violation of any law or rule administered and enforced by the commission occurred, the commission shall conduct a public hearing and, if the alleged violator is a member of the general assembly, shall notify the ethics committee of the appropriate house of the probable cause determination. Both the alleged violator and the complainant shall receive, by personal service or return receipt requested mail, notice of the time, date, and location of the hearing.

3-6-204. Subpoenas power – Fees -- Judicial review – Procedure.

(a) The Tennessee ethics commission, on its own motion or at the request of the alleged violator, may issue subpoenas in accordance with the Tennessee Rules of Civil Procedure, except that service may be by certified mail, in addition to the means of service provided by the Tennessee Rules of Civil Procedure. Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided by law or by action of the commission. The party requesting the subpoenas shall bear the cost of paying the fees to the witnesses subpoenaed.

(b) A person who is aggrieved by a final disposition of the commission shall be entitled to judicial review.

(1) Proceedings for review shall be instituted by filing a petition for review in the chancery court of Davidson County, unless another court is specified by statute. The petition shall be filed within sixty (60) days after the entry of the commission's final disposition on the complaint. Copies of the petition shall be served upon the commission, the complainant and all parties of record, including the attorney general and reporter, in accordance with the provisions of the Tennessee Rules of Civil Procedure pertaining to service of process.

(2) The provision of § 4-5-322 relating to judicial review of agency decisions shall apply to a petition of review filed pursuant to this section.

3-6-205. Penalties.

(a) The Tennessee ethics commission may impose a civil penalty for a violation of title 8, chapter 50, part 5.

(1) “Class 1 offense” means the late filing of any report or statement required by title 8, chapter 50, part 5. A Class 1 offense shall be punishable by a civil penalty of not more than twenty-five dollars ($25.00) per day, up to a maximum of seven hundred fifty dollars ($750).

(A) The Tennessee ethics commission shall have personally served upon, or sent by return receipt requested mail, an assessment letter to any person required to file, upon the commission's discovery that a due report has not been filed. A civil penalty of twenty-five dollars ($25.00) per day shall begin to accrue five (5) days after personal service or receipt of the letter and shall continue to accrue until the report is filed, or for thirty (30) days, whichever occurs first.

(B) To request a waiver, reduction, or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 1 offense, a person shall file a petition with the commission.

(2) “Class 2 offense” means failing to file a report required by title 8, chapter 50, part 5, within thirty-five (35) days after service of process or receipt of notice by registered or certified mail of an assessment or any other violation of the requirements of title 8, chapter 50, part 5, except where another penalty is prescribed by law. A Class 2 offense is punishable by a maximum civil penalty of not more than ten thousand dollars ($10,000).

(A) For any Class 2 offense, the Tennessee ethics commission shall send an assessment letter to a person required to file, in a form sufficient to advise the person required to file, of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. If a disclosure report is returned to a person required to file for correction, a copy of the

original shall be retained on file until the corrected report is returned to the Tennessee ethics commission. If the original filing was in compliance with the intent of the law and minor errors are corrected within the date set for a response, no penalty shall be assessed.

(B) To request a waiver, reduction, or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 2 offense, a person shall file a petition with the commission.

(b) Any candidate for state public office who fails to file any statement or report required by title 8, chapter 50, part 5, shall be ineligible to qualify for election to any state public office until the statement or report is filed with the commission.

3-6-206. Register of unpaid penalties – Effect of unpaid penalties.

(a) The Tennessee ethics commission shall maintain a register of all civil penalties imposed under this chapter and remaining unpaid.

(b) If a civil penalty lawfully assessed and any lawfully assessed cost attendant to the penalty are not paid within thirty (30) days after the assessment becomes final, any candidate owing a civil penalty shall be ineligible to qualify for election to any state public office until the penalty and costs are paid.

(c) If a civil penalty authorized by this section is imposed, it shall be considered a personal judgment against the person subject to the civil penalty.

3-6-207. Misuse of office for personal gain by general assembly member.

Notwithstanding § 3-6-203, if the commission determines that probable cause exists to believe that a member of the general assembly has committed an act constituting misuse of office for personal financial gain, then, except as otherwise provided in § 3-6-306(a)(3), no civil penalty shall be imposed and the commission shall instead report its determination and findings to the ethics committee of the appropriate house of the general assembly.

3-6-208. Sanctions for unsubstantiated complaints – Immunity.

(a) If the commission determines that a person:

(1) Filed a complaint or provided information that resulted in an investigation knowing that the material statements in the complaint or the information provided was not true;

(2) Filed an unsubstantiated complaint in reckless disregard of the truth or falsity of the statements contained in the complaint; or

(3) Filed one (1) or more unsubstantiated complaints that constituted abuse of process,

then the complainant is subject to the civil penalties authorized by § 3-6-205(a)(2) and may be liable for any reasonable costs and reasonable attorney fees the alleged violator has incurred. The commission may also decline to consider any further complaints brought by the complainant.

(b) The sanctions authorized by subsection (a) are not exclusive and do not preclude any other remedies or rights of action the alleged violator may have against the complainant or informant under the law; provided, that any person who in good faith files a verified complaint or any person, official, or agency that gives credible information that results in a formal complaint filed by the commission is immune from any civil liability that otherwise might result by reason of such actions.

3-6-209. Complaints against commission – Special joint committee – Probable cause – Recommendation on penalty – Sanctions for unsubstantiated complaints – Immunity.

(a) An individual who is within the jurisdiction of the commission may file a sworn complaint against any member or employee of the commission alleging a violation of this chapter, including allegations of arbitrary and capricious actions of the commission against the individual. The complaint shall state with specificity such allegation. Such complaint shall be filed with the speaker of the senate and the speaker of the house of representatives. Each speaker shall, after determining that there are sufficient grounds for review, appoint four (4) members of their respective bodies to a special joint committee, which shall investigate the complaint. Two (2) members of the majority party and two (2) members of the minority party shall be appointed to the committee by each speaker. The special joint committee shall appoint a chair and other officers deemed necessary. An affirmative vote of five (5) members of the committee shall be required for any committee action.

(b) If the special joint committee finds insufficient evidence to establish probable cause to believe a violation has occurred, it shall dismiss the complaint.

(c) If, upon completion of its preliminary investigation, the committee finds sufficient evidence to establish probable cause to believe a violation has occurred, the chair of the committee shall transmit the findings to the governor, who shall convene a meeting of the governor, the speaker of the senate and the speaker of the house of representatives to take such final action on the complaint as they shall deem appropriate consistent with penalties imposed pursuant to this chapter, including referring the matter to the office of the attorney general and reporter or removing the member of the commission from office and declaring the office vacant.

(d) Upon request of a majority of the governor, the speaker of the senate and the speaker of the house of representatives, the special joint committee shall submit a recommendation as to what penalty, if any, should be imposed.

(e) If a person:

(1) Files a complaint against a member of the commission pursuant to this section that results in an investigation, knowing that the material statements in the complaint or the information provided was not true;

(2) Files an unsubstantiated complaint in reckless disregard of the truth or falsity of the statements contained in the complaint; or

(3) Files one (1) or more unsubstantiated complaints that constitute abuse of process,

then the complainant is subject to the civil penalties authorized by § 3-6-205(a)(2) and may be liable for any reasonable costs and reasonable attorney fees the alleged violator has incurred. The sanctions authorized by this subsection (e) are not exclusive and do not preclude any other

remedies or rights of action the member may have against the complainant or informant under the law; provided, that any person who in good faith files a verified complaint or any person, official, or agency who gives credible information that results in an investigation is immune from any civil liability that otherwise might result by reason of such actions.

3-6-210. Applicability of §§ 3-6-201 – 3-6-203 –Authority of commission to investigate alleged violations of title 8, chapter 50, part 5 – Petitions considered as contested case.

(a) Except as provided in subdivision (b)(1), §§ 3-6-201 – 3-6-203 shall only apply to a complaint alleging a violation of this chapter.

(b)(1) The commission has the authority to investigate any alleged violation of title 8, chapter 50, part 5, upon a sworn complaint by a citizen of the state that meets the requirements of § 3-6-201(b) or upon its own motion. The commission shall only have the power to assess a civil penalty after notice and opportunity for hearing.

(2) A petition filed pursuant to § 3-6-205(a)(1)(B) or (a)(2)(B) may be considered as a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

Title 3. Legislature
Chapter 6. Lobbying
Part 3. Lobbyists

3-6-301. Part definitions.

As used in this part, unless the context otherwise requires:

(1) “Administrative action” means the taking of any recommendation, report or nonministerial action; the making of any decision or taking any action to postpone any action or decision; action of the governor in approving or vetoing any bill or resolution; the promulgation of a rule; or any action of a quasi-legislative nature, by an official in the executive branch of state government; however, “administration action” does not include ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch of state government;

(2) “Association” means any union, league, chamber of commerce, committee, club, or other membership organization;

(3) “Attorney general” means the attorney general and reporter;

(4) “Campaign contribution” means any contribution as defined by § 2-10-102;

(5) “Candidate for public office” means any individual who has made a formal announcement of candidacy or who qualified under the law of this state to seek nomination for election or elections to any state public office, or has received contributions or made expenditures, except for incidental expenditures to determine if one shall be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures, with a view to bringing about that person's nomination for election or the election to state public office, and any individual who has been nominated for appointment as an official in the legislative or executive branch;

(6) “Compensation” means any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, whether received or to be received; however, “compensation” does not include the salary or reimbursement of an individual whose lobbying is incidental to that person's regular employment;

(7) “Employer of a lobbyist” or “employer” means any person or entity that employs, retains or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. “Employer of a lobbyist” or “employer” specifically includes any such person or entity notwithstanding the lobbyist's status as an employee, agent, contractor, subcontractor or other representative lobbying on behalf of such person or entity for compensation. “Employer of a lobbyist” or “employer” does not include the individual employees, officers, directors, or members of a corporation, labor organization, association, or membership organization other than the chief executive officer and the chief financial officer or comparable individuals within such corporation, labor organization, association, or membership organization. For purposes of employer registration and disclosure pursuant to this part, a lobbying firm is not deemed to be the employer of any lobbyist within the firm;

(8) “Executive agency” means any commission, board, agency, or other entity in the executive branch of the state government or any independent entity of the state government that is not a part of the legislative or judicial branch;

(9) “Expenditure” means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make an expenditure;

(10) “Gift” means any payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or services, unless consideration of equal or greater value is received. “Gift” does not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. “Gift” does not include the waiver of a registration fee for a conference or educational seminar;

(11) “Immediate family” means a spouse or minor child living in the household;

(12) “Influencing legislative or administrative action” means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including, but not limited to, the provision or use of information, statistics, studies, or analyses, but not including the furnishing of information, statistics, studies, or analyses requested by an official of the legislative or executive branch to that official or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch;

(13) “Investigatory audit information” means data obtained pursuant to a finding of probable cause to believe that an employer or lobbyist has violated this part, including information pertaining to the source or amount of employer or lobbyist income, expenditures, receipts, assets, liabilities, net worth, or related financial or proprietary information that is received by, recorded by, prepared by, or collected by or on behalf of the ethics commission during the course of any audit, investigation or other examination undertaken for the purpose of ensuring compliance with, or imposing civil or criminal sanctions for violation of, this part. “Investigatory audit information” does not include data in a form that cannot, either directly or indirectly, be associated with, or otherwise be used to identify, directly or indirectly, a particular employer or lobbyist;

(14) “Legislative action” means introduction, sponsorship, debate, voting or any other nonministerial official action or nonaction on any bill, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a legislative committee or in either house of the general assembly;

(15)(A) “Lobby” means to communicate, directly or indirectly, with any official in the legislative branch or executive branch for the purpose of influencing any legislative action or administrative action;

(B) “Lobby” does not mean communications with officials of the legislative or executive branches by an elected or appointed public official performing the duties of the office held; a duly licensed attorney at law acting in a representative capacity on behalf of a client appearing before an official of the executive branch for the purpose of determining or obtaining such person's legal rights or obligations in a contested case action, administrative proceeding, or rule making procedure; or an editor or working member of the press, radio or television who, in the ordinary course of business, disseminates news or editorial comment to the general public;

(C) “Lobby” does not mean communications by an incumbent or prospective contractor or

vendor, or an employee of the contractor or vendor, while engaged in selling or marketing to the state, or any department or agency of the state, by demonstrating or describing goods or services to be provided or by inquiring about specifications, terms, conditions, timing, or similar commercial information. However, the contractor or vendor, or employee of the contractor or vendor, shall be deemed to be a lobbyist, solely for the purposes of § 3-6-305, if actively engaged in selling or marketing to an official in the executive branch or an official in the legislative branch whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract so marketed or sold;

(D) "Lobby" does not mean communications by an employee of a school board, municipal utility, utility district, or any department, agency or entity of state, county or municipal government; provided, however, that, if the board, utility, district, department, agency or entity employs, retains or otherwise arranges for lobbyist services in this state by a contractor, subcontractor or other representative who is not an employee of such board, utility, district, department, agency or entity, then "lobby" includes communications by the contractor, subcontractor or other representative, and the contractor, subcontractor or other representative shall comply with the lobbying registration and other provisions of this part pertaining to lobbyists; provided further, however, that the board, utility, district, department, agency or entity that employs the contractor, subcontractor or other representative is not deemed to be an employer of a lobbyist for purposes of this part;

(E) "Lobby" does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to the issuance or award of a bond, grant, lease, loan or incentive pursuant to §§ 4-3-701--4-3-733; and

(F) "Lobby" does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to any component of an economic development incentive package; provided, that any person who is otherwise required to register as a lobbyist under the provisions of the Comprehensive Governmental Ethics Reform Act of 2006, Acts 2006, ch. 1 of the extraordinary session of the 104th general assembly, shall not be deemed to fall within this exception;

(16) "Lobbying firm" means any firm, corporation, partnership or other business entity that regularly supplies lobbying services to others for compensation;

(17) "Lobbyist" means any person who engages in lobbying for compensation;

(18) "Ministerial action" means an action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, the person's own judgment upon the propriety of the action being taken;

(19) "Official in the executive branch" means the governor, any member of the governor's staff, any member or employee of a state regulatory commission, including, without limitation, commissioners of the Tennessee public utility commission, or any member or employee of any executive department or agency or other state body in the executive branch. "Official in the executive branch" also includes any administrative governmental official or employee of any county exercising the authority set forth in § 8-17-103(b);

(20) "Official in the legislative branch" means any member, member-elect, any staff person or employee of the general assembly or any member of a commission established by and responsi-

ble to the general assembly or either house of the general assembly who takes legislative action. "Official in the legislative branch" also includes the secretary of state, treasurer, and comptroller of the treasury and any employee of those offices. "Official in the legislative branch" also includes any legislative governmental official or employee of any county exercising the authority set forth in § 8-17-103(b);

(21) "Person" means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons;

(22) "Random audit information" means information obtained pursuant to an examination of a lobbyist's employment contract, job description or other documentation in order to determine that no contingency fee arrangement prohibited under 3-6-304(k) is included and that the date of employment as a lobbyist is consistent with the registration statements filed by both the lobbyist and employer. "Random audit information" also means information obtained pursuant to a review of the total lobbying and lobbying-related compensation and expenses paid to the lobbyist by an employer that will be checked against the range of expenditures reported by the employer in a random audit. As provided in § 3-6-106(a)(4), information contained in statements filed with the commission for more than two (2) years shall not serve as the basis for a random audit. Nothing contained in this subdivision (22) shall prevent the commissioner, upon a finding of probable cause to believe that an employer or lobbyist has violated this part from initiating an investigatory audit; and

(23) "Solicit" means to entreat, to implore, to ask, to attempt, or to try to obtain.

3-6-302. Electronic registration of lobbyists and employers of lobbyists – Lobbyist photographs – Amendment of inaccuracies – Consolidated statements – Fees.

(a)(1) Not later than seven (7) days after becoming an employer of a lobbyist, the employer shall electronically register with the Tennessee ethics commission. Each year thereafter, the employer shall register in the same manner, if the employer continues to employ one (1) or more lobbyists.

(2) Not later than seven (7) days after becoming a lobbyist, the lobbyist shall electronically register with the ethics commission. The information provided by the lobbyist shall include, but not be limited to, the lobbyists' name and birthdate, and the last four (4) digits of the lobbyist social security number; provided, that the last four (4) digits of the lobbyists' social security number is not a public record and shall only be used by the state of a local governmental entity for purposes related to the administration of chapter 519 of the Public Acts of 2012. Each year thereafter, the lobbyist shall register in the same manner if the lobbyist continues to engage in lobbying.

(3) Within thirty (30) days after registering, each lobbyist shall provide a current photographic portrait to the ethics commission; however, no lobbyist shall be required to submit more than one (1) portrait during any year.

(b)(1) As a component of the registration process, each employer of a lobbyist shall electronically file a registration statement that includes the following information:

(A) Employer's name, business address, telephone number and e-mail address; and, in the case of a corporation, association or governmental entity, the names of the individuals performing

the functions of chief executive officer and chief financial officer;

(B) Name, business address, telephone number and e-mail address of each lobbyist authorized to represent the employer; and

(C) Verification that the employer has downloaded from the commission web site or otherwise obtained the commission's manual for lobbyists and employers of lobbyists.

(2) As a component of the registration process, each lobbyist shall electronically file a registration statement that includes the following information:

(A) Lobbyist's name, business address, telephone number and e-mail address;

(B) Name, business address, telephone number and e-mail address of each employer the lobbyist is authorized to represent;

(C) Subject matters lobbied for such employers during the registration year, to be indicated among general categories listed by the ethics commission;

(D) Name and business address of any member of the lobbyist's immediate family who is an official within the legislative or executive branch; and

(E) The extent of any direct business arrangement or partnership between the lobbyist and any candidate for public office or any official in the legislative or executive branch.

(c) Throughout the year, by amendment electronically filed with the ethics commission, each employer of a lobbyist and each lobbyist shall update, correct or otherwise modify the employer's or lobbyist's registration statement not later than seven (7) days following the occurrence of any event, action or changed circumstance that renders the registration statement inaccurate or incomplete.

(d) A lobbying firm shall be authorized, by rule promulgated pursuant to § 4-55-103(1) to file consolidated lobbyist registration, registration statements, and registration amendments on behalf of all partners, associates and employees within the firm; however, the partners, associates and employees of the firm shall be individually named and shall remain individually accountable for the timeliness and accuracy of the consolidated filing.

(e) Registration fees for employers of lobbyists and registration fees for lobbyists shall be established by rule, promulgated pursuant to § 4-55-103(1). The registration fee shall be paid not later than thirty (30) days following submission of a registration statement or amendment through which an employer reports a lobbyist or additional lobbyist or through which a lobbyist reports an employer or additional employer.

(f) Employer and lobbyist registration statements, as may be amended, as well as lobbyist photographs, shall be promptly posted on the commission's Internet site.

(g) The initial registration year for lobbyists and employers of lobbyists shall be the period from October 1, 2006, through December 31, 2007. Thereafter, the registration year for lobbyists and employers of lobbyists shall be the period of January 1 through December 31.

3-6-303. Biannual employer disclosure reports.

(a) Within forty-five (45) days following conclusion of the six-month periods ending June 30 and December 31, each employer of a lobbyist shall electronically file with the ethics commission the employer disclosure report. For the six-month period, the report shall disclose the following information on a single electronic form:

(1) The aggregate total amount of lobbyist compensation paid by the employer. For purposes of the disclosure, compensation paid to any lobbyist who performs duties for the employer in addition to lobbying and related activities shall be apportioned to reflect the lobbyist's time allocated for lobbying and related activities in this state. The aggregate total amount of such lobbyist compensation shall be reported within one (1) of the following ranges:

(A) Less than $10,000;

(B) At least $10,000 but less than $25,000;

(C) At least $25,000 but less than $50,000;

(D) At least $50,000 but less than $100,000;

(E) At least $100,000 but less than $150,000;

(F) At least $150,000 but less than $200,000;

(G) At least $200,000 but less than $250,000;

(H) At least $250,000 but less than $300,000;

(I) At least $300,000 but less than $350,000;

(J) At least $350,000 but less than $400,000; or

(K) $400,000 or more; provided, however, that, if the aggregate total amount is reported within this range, then the employer shall round the aggregate total amount to the nearest $50,000 and also report the rounded amount within the disclosure report;

(2) Excluding lobbyist compensation, the aggregate total amount of employer expenditures incurred for the purpose of influencing legislative or administrative action through public opinion or grassroots action, including, but not necessarily limited to, any such expenditures for printing, publishing, advertising, broadcasting, paid announcements, audiotapes, videotapes, compact discs, digital video discs, infomercials, rallies, demonstrations, seminars, lectures, conferences, postage, telephone-related costs, Internet-related services, public relations services, governmental relations services, polling services, travel expenses, grants to issue groups or grassroots organizations, or any similar expense. For purposes of this disclosure, any such expenditure that is made for the purpose of achieving a multistate effect shall be apportioned equally among such states. The aggregate total amount of these employer expenditures shall be reported within one (1) of the following ranges:

(A) Less than $10,000;

(B) At least $10,000 but less than $25,000;

(C) At least $25,000 but less than $50,000;

(D) At least $50,000 but less than $100,000;

(E) At least $100,000 but less than $150,000;

(F) At least $150,000 but less than $200,000;

(G) At least $200,000 but less than $250,000;

(H) At least $250,000 but less than $300,000;

(I) At least $300,000 but less than $350,000;

(J) At least $350,000 but less than $400,000; or

(K) $400,000 or more; provided, however, if the aggregate total amount is reported within this range, then the employer shall round the aggregate total amount to the nearest $50,000 and also report the rounded amount within the disclosure report; and

(3) The aggregate total amount of all employer expenditures for any event permissible under § 3-6-305(b)(8).

(b) Employer disclosure reports shall be promptly posted on the commission's web site. Any such posting of an employer's aggregate total expenditures disclosed pursuant to subdivision (a)(3) shall be supplemented by the commission with other information related to such event or events, delivered or reported to the commission pursuant to § 3-6-305(b)(8).

3-6-304. Restrictions on lobbying.

(a) No employer of a lobbyist, lobbyist or any person acting at the specific direction of an employer or lobbyist shall offer or attempt to offer anything of value to an official in the legislative or executive branch, or to the official's immediate family, based on any stated or tacit understanding that the official's vote, official action or judgment would be influenced thereby.

(b) No employer of a lobbyist or lobbyist shall knowingly make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which the lobbyist is registered to lobby to any official in the legislative or executive branch.

(c) No official in the legislative or executive branch, or a member of the official's staff or immediate family, shall solicit or accept anything of value in violation of subsection (a).

(d) No lobbyist shall make a loan of money to a candidate for public office, official in the legislative or executive branch, or to anyone on their behalf.

(e) No candidate for public office, official in the legislative or executive branch, or a member of the official's staff or immediate family, shall solicit or accept a loan in violation of subsection (d).

(f) No employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall pay or agree to pay a candidate for public office or official in the legislative or executive branch compensation for property or services substantially in excess of that charged in the ordinary course of business.

(g) No employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall permit a candidate for public office, official in the legislative or executive branch or a staff member, or a member of the candidate or official's immediate family, to use the credit or credit card of the employer or lobbyist or any other credit card over which the employer or the lobbyist has control.

(h) Except to the extent permissible under § 3-6-305, no employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall pay the lodging expenses of an official in the legislative or executive branch or immediate family of the official.

(i) No employer of a lobbyist or multicandidate political campaign committee controlled by an employer of a lobbyist shall make any campaign contribution to a candidate for the office of governor or member of the general assembly during any regular annual session or any extraordinary session of the general assembly.

(j) No lobbyist shall offer or make any campaign contribution, including any in-kind contribution, to or on behalf of the governor, any judge or chancellor, or any member of the general assembly or any candidate for the office of governor, supreme court judge, court of appeals judge, court of criminal appeals judge, circuit court judge, chancellor, juvenile court judge, general sessions judge, state senator, or state representative.

(k) No employer of a lobbyist shall offer or pay and no lobbyist shall solicit or accept any fee, compensation or bonus for lobbying wherein the amount of the fee, compensation or bonus is contingent upon achievement of an outcome deemed to be successful for the employer.

(l) No member of the general assembly, elected official in the executive branch, member of the governor's cabinet, or cabinet level staff within the governor's office shall be a lobbyist during the twelve-month period immediately following departure from such office or employment.

(m) No lobbyist shall serve as a member of any board, commission or governmental entity of state government having jurisdiction to regulate the business endeavors or professional activities of any employer of the lobbyist; nor shall any lobbyist serve as a member of the state election commission or any county election commission; provided, that this prohibition does not apply to a lobbyist serving on an election commission on February 15, 2006, as long as the lobbyist continuously serves as a member of that commission.

(n) No official in the legislative or executive branch shall accept travel expenses, meals or lodging paid pursuant to § 2-10-116(a), if payment of the travel expenses, meals or lodging violates any provision of this section or constitutes a prohibited gift under the provisions of § 3-6-305.

3-6-305. Prohibited gifts -- Exceptions

(a)(1) No employer of a lobbyist or lobbyist may provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.

(2) A candidate for public office, an official in the legislative branch, or an official in the executive branch, or the immediate family of such candidate or official, may not solicit or accept, directly or indirectly, a gift from an employer of a lobbyist or a lobbyist.

(b) The following are not subject to the prohibition in subsection (a):

(1) Benefits resulting from business, employment, or other outside activities of a candidate or official or the immediate family of a candidate or official, if such benefits are customarily provided to others in similar circumstances and are not enhanced due to the status of the candidate or official;

(2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;

(3) Gifts that are given for a nonbusiness purpose and motivated by close personal friendship, but only to the extent such gifts are specifically defined and authorized by the rules of the ethics commission;

(4) Sample merchandise, promotional items, and appreciation tokens, if such merchandise, items and tokens are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;

(5) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items; provided, that any such item shall not be in a form that can be readily converted to cash;

(6) Opportunities and benefits made available to all members of an appropriate class of the general public, including, but not limited to:

(A) Discounts afforded to the general public or specified groups or occupations under normal business conditions, except that such discounts may not be based on the status of the candidate or official;

(B) Prizes and awards given in public contests; and

(C) Benefits of participation in events held within the state and sponsored by, or for the benefit of, charitable organizations as defined in § 48-101-501, if provided by an employer of a lobbyist to an official in the executive branch or to an official in the legislative branch; provided, that such events are open to participation by persons other than officials in the executive branch or officials in the legislative branch or the official's immediate family and any benefits received are not enhanced due to the status of the official in the executive or legislative branch; or provided, that invitations are extended to the entire membership of the general assembly;

(7)(A) Expenses for out-of-state travel, if such expenses are paid for or reimbursed by a governmental entity or an established and recognized organization of elected or appointed state gov-

ernment officials, staff of state government officials or both officials and staff, or any other established and recognized organization that is an umbrella organization for such officials, staff, or both officials and staff;

(B) Entertainment, food, refreshments, meals, beverages, amenities, goody bags, exhibitor promotional items given in the exhibit hall to conference attendees, health screenings, lodging, or admission tickets that are provided in connection with, and are arranged or coordinated through the employees or designated agents of, a conference, if the conference is sponsored by an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff, or any other established and recognized organization that is an umbrella organization for such officials, staff, or both officials and staff. For purposes of this subdivision (b)(7)(B), any entertainment, food, refreshments, meals, beverages, amenities, goody bags, or admission tickets provided at events designated as a "state night" or other events for attendees of the conference shall be deemed to be provided "in connection with, and arranged or coordinated through the employees or designated agents of" the conference;

(8) Entertainment, food, refreshments, meals, beverages, or health screenings that are provided in connection with an in-state event to which invitations are extended to the entire membership of the general assembly; however, a copy of the invitation shall be delivered to the ethics commission and to each member of the general assembly at least seven (7) days in advance of the event by the employer or lobbyist paying for the event; provided further, however, that, within thirty (30) days following the event, the employer or lobbyist shall electronically report to the commission the total aggregate cost paid for the event, as well as the per person contractual cost for the event or the per person cost for the event based on the number of persons invited, which shall not exceed fifty dollars ($50.00) per person per day, excluding sales tax and gratuity. The value of any such gift may not be reduced below the monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists. All such information delivered or reported to the commission shall be promptly posted on the commission's Internet site. The filing of a consolidated report may be authorized by rule, promulgated pursuant to § 4-55-103(1), if the cost of the event are shared by two (2) or more employers or lobbyists; however, any such report shall specify the allocation of the costs among the employers or lobbyists; provided further, however, that the employers or lobbyists shall remain individually accountable for the timeliness and accuracy of the consolidated filing. The fifty dollar ($50.00) limitation shall be increased to the nearest one dollar ($1.00) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics, every odd-numbered year on January 1, starting in 2007. The ethics commission shall publish the increased amount on its web site;

(9) Entertainment, food, refreshments, meals, amenities, or beverages that are provided in connection with an in-state event at which a candidate for public office, an official in the legislative branch or an official in the executive branch, or an immediate family member of the candidate or official is a speaker or part of a panel discussion at a scheduled meeting of an established and recognized membership organization that has regular meetings; however, the cost of the entertainment, food, refreshments, meals, amenities, or beverages shall be paid for or reimbursed by the membership organization and the per person cost of the event, which shall not exceed fifty dollars ($50.00) per person per day, excluding sales tax and gratuity. The value of any such gift may not be reduced below such monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists. The fifty dollar ($50.00) limitation shall be increased to the nearest one dollar ($1.00) amount to reflect the percentage of change in the aver-

age consumer price index (all items-city average) as published by the United States Department of Labor, Bureau of Labor Statistics, every odd-numbered year on January 1 starting in 2007. The ethics commission shall publish the increased amount on its web site;

(10)(A) Food, refreshments, meals, or beverages that are provided by an employer of a lobbyist in connection with an in-state event to which invitations are extended to an official or officials in the legislative branch or official or officials in the executive branch; provided, that:

(i) No employer of a lobbyist may provide food, refreshments, meals, or beverages, the value of which to the official exceeds fifty dollars ($50.00) per event per day, excluding sales tax and gratuity; nor may such employer of a lobbyist provide any such items to any official pursuant to this subdivision (b)(10)(A)(i) that have a cumulative value of more than one hundred dollars ($100) to the official during a calendar year;

(ii) The value of any such gift may not be reduced below such monetary limitations by dividing the cost of the gift among two (2) or more employers of lobbyists;

(iii) This exception to the prohibition in subsection (a) only applies to a member or members of the general assembly, if the member or members do not receive a per diem allowance pursuant to § 3-1-106, for the day on which the event is held and the member or members do not receive any food, refreshments, meals or beverages that are provided in connection with the in-state event that are not offered or provided to other nonmembers in attendance at the event; and

(iv) An officer or management-level employee of each employer of a lobbyist paying for the event shall attend the event; however, a lobbyist shall not be considered to be an officer or management-level employee of an employer of the lobbyist paying for the event for purposes of this subdivision (b)(10)(A)(iv).

(B) The fifty dollar ($50.00) and one hundred dollar ($100) amounts in subdivision (b)(10)(A)(i) shall be increased to the nearest one dollar ($1.00) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics, every odd-numbered year on January 1 starting in 2007. The ethics commission shall publish the increased amount on its web site;

(11) Occasional or incidental local travel for which no fare is ordinarily charged; or

(c) If an official in the legislative or executive branch attends an event and accepts a gift that is provided by a person or entity not subject to the prohibition set forth in § 3-6-305(a), and if a lobbyist also attends the event and knows or has reason to know that the gift has been provided at the suggestion or direction of the lobbyist, then, within seven (7) days following the event, the lobbyist shall electronically report the following information to the ethics commission:

(1) Name of the official or family member;

(2) Nature and purpose of the event;

(3) Name, address and business of the person or entity that provided the gift;

(4) Description of the gift; and

(5) Cost of the gift; however, if the cost of the gift is unknown and not reasonably discernible by the lobbyist, then the lobbyist shall report a good faith estimate of the cost of the gift.

(d) A gift made contrary to this section, shall not be a violation of this section, if the candidate, official or immediate family member does not use the gift and returns it to the donor within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation or pays consideration of equal or greater value within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation.

3-6-306. Penalties.

(a) Notwithstanding any law to the contrary:

(1)(A) The ethics commission may administratively assess a civil penalty of not more than twenty-five dollars ($25.00) per day up to a maximum of seven hundred fifty dollars ($750) if an employer of a lobbyist:

(i) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the employer's registration statement;

(ii) Fails, without good cause, to timely pay registration fees;

(iii) Fails, without good cause, to timely file the employer disclosure report;

(B) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars ($10,000), if an employer of a lobbyist:

(i) Files information with the commission knowing or having reason to know that the information is inaccurate or incomplete;

(ii) Utilizes the services of a lobbyist knowing or having reason to know that the lobbyist has not registered or that the lobbyist's registration has expired without renewal or has been rejected, suspended or revoked by the ethics commission; or

(iii) Knowingly violates any provision of § 3-6-304 or § 3-6-305; provided, that for an initial violation of § 3-6-305, the commission may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars ($25.00), whichever is greater;

(2)(A) The ethics commission may administratively assess a civil penalty of not more than twenty-five dollars ($25.00) per day up to a maximum of seven hundred fifty dollars ($750) if a lobbyist:

(i) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the lobbyist's registration statement; or

(ii) Fails, without good cause, to timely pay a registration fee;

(B) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars ($10,000), if a lobbyist:

(i) Files information with the commission knowing or having reason to know that the information is inaccurate or incomplete;

(ii) Engages in lobbying on behalf of an employer knowing or having reason to know that the employer has not registered or that the lobbyist's registration has expired without renewal or has been rejected, suspended or revoked by the ethics commission; or

(iii) Knowingly violates § 3-6-304 or § 3-6-305; provided, that, for an initial violation of § 3-6-305, the commission may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars ($25.00), whichever is greater; and

(3)(A) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars ($10,000), if any candidate for public office, official in the legislative or executive branch, or an immediate family member of the candidate or official knowingly violates § 3-6-304 or § 3-6-305; provided, that, for an initial violation of § 3-6-305, the commission may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars ($25.00), whichever is greater. Additionally, if the commission determines that an egregious violation of either § 3-6-304 or § 3-6-305 has been committed by a member of the general assembly, then it may report its findings and actions to the ethics committee of the appropriate house of the general assembly.

(B)(i) Notwithstanding subdivision (a)(3)(A), no civil penalty shall be imposed by the ethics commission on any staff person or employee of the general assembly or any employee of any executive department or agency or other state body in the executive branch for a violation of this part. The ethics commission shall instead refer the commission's findings and recommendations for appropriate action to the speakers of the senate and of the house of representatives, if the person is a staff person or employee of the general assembly and to the appropriate executive official with supervisory authority over that person if the person is an employee of any executive department or agency or other state body in the executive branch.

(ii) As used in subdivision (a)(3)(B)(i), “staff person” and “employee” shall not be construed to include any person holding any office or position enumerated in § 8-50-501(a).

(b) Notwithstanding any law to the contrary, the ethics commission may administratively place on probationary status, suspend, reject, or revoke the registration of any lobbyist who knowingly and persistently violates this part. As used in this subsection (b), “persistently” means three (3) or more occasions during a two-year period of any general assembly.

(c)(1) On its Internet site, the ethics commission shall promptly post the names of all employers and lobbyists who are:

(A) Delinquent in filing registration, registration statements or amendments thereto;

(B) Delinquent in filing disclosure reports;

(C) Delinquent in paying registration fees or civil penalties; or

(D) Found to have committed any other violation of this part.

(2) Additionally, the commission shall post the names of all lobbyists having expired, probation-

ary, suspended, rejected, or revoked registration. The commission shall also post the names of any other person found to have knowingly violated § 3-6-304 or § 3-6-305.

(d) An intentional violation of this part constitutes a criminal offense and is punishable as a Class C misdemeanor for the first offense, as a Class B misdemeanor for the second offense, and as a Class A misdemeanor for the third and subsequent offenses.

(e) In the chancery court of Davidson County, the ethics commission may seek injunctive relief to prevent any employer of a lobbyist, lobbyist, candidate for public office, official in the legislative or executive branch, or the immediate family of the candidate or official from engaging in any continuing violation of this part.

(f) It is a Class B misdemeanor for any person to file with the ethics commission a sworn complaint, alleging a violation of this part, that is known to be false.

§ 3-6-307. Exemption of lobbying activities when paid only out-of-pocket personal expenses

(a) Notwithstanding any provision of this chapter to the contrary, if a person receives as compensation for lobbying only reimbursement for actual out-of-pocket personal expenses, and if the person receives reimbursement for ten (10) days or less per year, then the person is not a lobbyist for purposes of this chapter or § 67-4-1702(a)(1).

(b) Notwithstanding any provision of this chapter to the contrary, if a person receives as compensation for lobbying only reimbursement for actual out-of-pocket personal expenses, and if the person receives the reimbursement for more than ten (10) days per year, then the person shall register as a lobbyist and shall comply with all lobbyist requirements imposed pursuant to this chapter; provided, however, that the commission shall waive the person's registration fee and the person shall be exempt from payment of the occupational privilege tax on lobbyists imposed by § 67-4-1702(a)(1).

(c) Notwithstanding any provision of this chapter to the contrary, if an individual or entity employs, retains or otherwise arranges for one or more persons to engage in lobbying for compensation, and if the only compensation paid is reimbursement for actual out-of-pocket personal expenses, and if the reimbursement is not paid for more than ten (10) days per person per year, then the individual or entity is not an employer of a lobbyist for purposes of this chapter.

(d) For purposes of this section, the term “out-of-pocket personal expenses” includes such things as the lobbyist registration fee, legislative information services material, copying expenses,

transportation costs, parking fees, and personal lodging and food expenses incurred while actually engaging in lobbying. Reimbursement for transportation, parking, personal lodging and food costs shall be limited to expenses allowed for those items in the comprehensive state travel regulations. No such reimbursed expenses shall be for the benefit of any public official, except for informational materials delivered to public officials.

3-6-308. Administration and enforcement -- Duties of ethics commission – Duties of attorney general – Confidentiality.

(a) This part shall be administered and enforced by the ethics commission. To that end, it is the duty of the ethics commission to:

(1) Develop, with the advice, assistance and approval of the office of information resources, and prescribe electronic forms for registration, registration statements, amendments to registration statements, disclosure reports and other information required to be reported pursuant to this part;

(2) Preserve the registration, registration statements, amendments to registration statements, disclosure reports and other filed information for a period of at least five (5) years, or longer when there is a pending investigation by the commission or any law enforcement agency, or when there is an ongoing administrative or judicial proceeding related to any registration, statements, amendments, reports or information;

(3) Develop a filing, coding and cross-indexing system consonant with the purposes of this part;

(4) Issue and publish, upon proper request from any employer, lobbyist or public official subject to the jurisdiction of the commission, advisory opinions concerning the requirements of this part; however, under no circumstances shall a person performing staff duties as an employee of the commission have the authority to issue an advisory opinion, informal or otherwise, except as provided in § 3-6-117, concerning the authority of a person performing staff duties as the executive director or an attorney to give informal responses in the manner described in § 3-6-117;

(5) Accept the electronic filing of any pertinent information voluntarily supplied that exceeds the requirements of this part;

(6) Review electronic filings submitted pursuant to this part to ensure compliance with the laws administered and enforced by the ethics commission. Filings older than two (2) years shall be deemed to be sufficient, absent a showing of fraud;

(7) Audit each year the registration statements, amendments to registration statements and reports of no more than four percent (4%) of all lobbyists. The attorney general and reporter, or the attorney general's designee, shall attend the random selection proceeding in order to preserve the integrity of the proceeding. Nothing contained within the provisions of this subdivision (a)(7) shall be construed to prevent the commission, upon finding probable cause to believe that an employer or a lobbyist has violated the provisions of this part, from auditing the registration statements, amendments to registration statements and reports of the employer or lobbyist;

(8)(A) Compile and publish, on the commission's Internet site, the following reports listing:

(i) All registered employers, alphabetically;

(ii) All registered lobbyists, alphabetically; and

(iii) Each subject matter category specified by the ethics commission for purposes of § 3-6-302(b)(2)(C), with each lobbyist listed under the subject matter category who lobbied that subject matter category during the registration year;

(B) The ethics commission may prepare and publish on its web site such other reports as are deemed to be appropriate and in the public interest;

(9) Impose civil penalties and other administrative sanctions in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the ethics commission upon request of the executive director.

(c) Notwithstanding any law to the contrary, random audit information and investigatory audit information shall be confidential and shall be maintained as such by the members and employees of the ethics commission and by the officers and employees of the state, in the manner and to the extent that the confidentiality of tax information is maintained by the officers and employees of the department of revenue and the state under title 67, chapter 1, part 17.

Title 8. Public Officers and Employees
Chapter 17. Ethical Standards for Officials and Employees

8-17-101. Legislative intent.

It is the intent of the general assembly that the integrity of the processes of local government be secured and protected from abuse. The general assembly recognizes that holding public office and public employment is a public trust and that citizens of Tennessee are entitled to an ethical, accountable and incorruptible government.

8-17-102. Chapter definitions – Application to jointly created instrumentalities, utility districts and school districts.

(a) As used in this chapter, unless the context otherwise requires:

(1) "Commission" means the Tennessee ethics commission;

(2) "County" means a county, metropolitan or consolidated government, inclusive of any boards, commissions, authorities, corporations or other instrumentalities appointed or created by the county or an official of the county. Furthermore, for the purpose of this chapter, the county election commission shall be considered an instrumentality of county government; and the administrator of elections and other employees of the election commission shall be considered county employees. Likewise, for the purpose of this chapter, the county health department shall be considered a county department and its employees shall be considered county employees;

(3) "Ethical standards" includes rules and regulations regarding limits on, and/or reasonable and systematic disclosure of, gifts or other things of value received by officials and employees that impact or appear to impact their discretion, and shall include rules and regulations regarding reasonable and systematic disclosure by officials and employees of their personal interests that impact or appear to impact their discretion. The term "ethical standards" does not include personnel or employment policies or policies or procedures related to operational aspects of governmental entities;

(4) "Municipality" means an incorporated city or town, inclusive of any boards, commissions, authorities, corporations or other instrumentalities appointed or created by the municipality; and

(5) "Officials and employees" means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation, whether compensated or not, or any officer, employee or servant thereof, of a county or municipality.

(b) If a board, commission, authority, corporation or other instrumentality is created by two (2) or more local government entities, such creating entities shall, by amendment to the interlocal agreement or other agreement creating such joint instrumentality, designate the ethical standards that govern the jointly created instrumentality.

(c) Utility districts shall be considered separate governmental entities and shall be governed by ethical standards established by the board of commissioners of the utility district in conformity

with § 8-17-105(b). Water, wastewater and gas authorities created by a private act or under the general law shall be considered separate governmental entities and shall be governed by ethical standards established by the governing board of the water, wastewater or gas authority in conformity with § 8-17-105(b).

(d) County, municipal and special school districts shall be considered separate governmental entities and shall be governed by ethical standards established by the board of education of the school district.

8-17-103. Adoption of ethical standards.

(a) Not later than June 30, 2007, the governing body of each entity covered by this chapter shall adopt by ordinance or resolution, as appropriate, ethical standards for all officials and employees of such entity. To the extent that an issue covered by an ethical standard is addressed by a law of general application, public law of local application, local option law, or private act, any ethical standard adopted by a governing body shall not be less restrictive than such laws.

(b) By resolution of the county legislative body, any county having a population of eight hundred thousand (800,000) or more, according to the 2000 census or any subsequent federal census, may elect to include all of its administrative officials and employees and all of its legislative officials and employees within the meaning and scope of title 3, chapter 6, part 3, as if the county officials and employees were officials and employees of state government. Upon adopting the resolution on or before June 30, 2007, the county shall be deemed to be in compliance with the requirements of this part; provided, that the county shall periodically reimburse the Tennessee ethics commission for the commission's increased costs arising from oversight and regulation of the county officials and employees.

8-17-104. Standards open to public inspection – Filing standards and amendments with ethics commission.

Each entity covered by this chapter shall maintain, for public inspection, the ethical standards of such entity and shall cause a copy of the adopted standards to be filed with the ethics commission. Any amendments or other modifications to the ethical standards shall also be filed with the commission as soon as practical after adoption by the governing body.

8-17-105. Adoption of models of ethical standards.

(a) The municipal technical advisory service (MTAS) for municipalities, the county technical assistance service (CTAS) for counties, and the Tennessee School Boards Association (TSBA) for school districts, in order to provide guidance and direction, shall disseminate models of ethical standards for officials and employees of those entities. The models shall be filed with the commission. Any municipality, county or school district that adopts the ethical standards for officials and employees of local government or school districts promulgated by MTAS, CTAS or TSBA is not required to file the policy with the commission but shall notify the commission in writing that the policy promulgated by MTAS, CTAS or TSBA was adopted and the date the action was taken.

(b)(1) In order to provide guidance and direction to water, wastewater and gas authorities created by a private act or under the general law and to utility districts, the Tennessee Association of Utility Districts (TAUD) shall prepare a model of ethical standards for officials and employees of water, wastewater and gas authorities created by private act or under the general law and of utility districts. The model shall be submitted to the utility management review board for its review and approval pursuant to § 7-82-702(16). The utility management review board shall approve by order the TAUD model of ethical standards before the model may be adopted by any water, wastewater or gas authority created by a private act or under the general law or by any utility district. After the utility management review board approves the TAUD model, the TAUD model shall be filed with the commission.

(2) The governing body of a water, wastewater or gas authority created by a private act or under the general law or of a utility district that adopts ethical standards for its officials and employees shall either adopt the TAUD model of ethical standards approved by the utility management review board or must adopt ethical standards that are more stringent than the TAUD model. If a water, wastewater or gas authority created by a private act or under the general law or a utility district adopts ethical standards that are different from and more stringent than the TAUD model, the more stringent ethical standards shall be submitted to the utility management review board which shall make a finding by order that the ethical standards adopted are more stringent than the TAUD model.

(3) Any water, wastewater or gas authority created by a private act or under the general law or any utility district that adopts the TAUD model of ethical standards is not required to file its ethical standards with the commission but shall notify the commission in writing that the TAUD model of ethical standards was adopted and the date that action was taken.

(4) Any water, wastewater or gas authority created by a private act or under the general law or any utility district that does not adopt the TAUD model of ethical standards or ethical standards more stringent than the TAUD model shall be governed by the ethical standards established by the county legislative body of the county in which the water, wastewater or gas authority created by a private act or under the general law or the utility district has the largest number of customers.

8-17-106. Removal from office for failure to adopt ethical standards – Violations of standards.

(a) Members of a governing body of an entity covered by this chapter who fail to adopt ethical standards as provided in this chapter shall be subject to removal from office as provided in chapter 47 of this title.

(b) Violations of ethical standards by officials or employees of entities covered by this chapter shall be enforced in accordance with provisions of existing law; provided, that no civil penalties for a violation of title 3, chapter 6, part 3 shall be imposed by the ethics commission on an employee of entities covered by this chapter. The ethics commission shall instead refer the commission's findings and recommendations for appropriate action to the appropriate official with supervisory authority over the person.

Title 8. Public Officers and Employees
Chapter 50. Miscellaneous Provisions
Part 5.Disclosure Statements of Conflict of Interests

8-50-501. Disclosure statements of conflict of interests by certain public officials.

(a) Disclosure of the interests named in § 8-50-502 shall be made to the Tennessee ethics commission by candidates for and appointees to the following offices:

(1) Each member of the general assembly;

(2) The secretary of state, comptroller of the treasury, state treasurer and each member of the state election commission;

(3) Each commissioner of the Tennessee public utility commission;

(4) The governor;

(5) Each officer of the governor's cabinet;

(6) Each supreme court justice, each judge of the court of criminal appeals and each judge of the court of appeals;

(7) Each delegate to a constitutional convention called to consider a new constitution or amendments to the Constitution of Tennessee;

(8) The attorney general and reporter;

(9) The district attorneys general and the public defenders for each judicial district;

(10) The administrative director of the courts;

(11) The executive director of the district attorneys general conference;

(12) The state election coordinator;

(13) Members of the board of parole;

(14) Members and executive director of the alcoholic beverage commission;

(15) The chancellor of the board of regents and the president of each college or university governed by the board of regents;

(16) The president of the University of Tennessee, and the chancellor of each separate branch or campus of the University of Tennessee;

(17) Members of the registry of election finance;

(18) Members of the Tennessee ethics commission;

(19) Each candidate or appointee to a local public office as defined in § 2-10-102.

(20) Members of any local planning commission; and

(21) Members of any regional planning commission.

(b) A candidate for any of the offices in subsection (a) that are elective shall file a disclosure statement no later than thirty (30) days after the last day provided by law for qualifying as a candidate. An appointee to any of the offices listed in subsection (a) shall file a disclosure statement within thirty (30) days from the date of appointment. The appointing authority shall notify the commission of any such appointment within three (3) days of the appointment.

(c) Any candidate or appointee who is running for reelection or is reappointed to the same office or position the candidate or appointee currently holds shall not be required to file the statement required by subsection (b), as long as such candidate or appointee is in compliance with §§ 8-50-503 and 8-50-504.

(d)(1) The disclosure shall be in writing in the form prescribed by the Tennessee ethics commission and shall be a public record; provided, however, that no candidate or appointee to a local public office required to disclose pursuant to subdivision (a)(19) shall be required to electronically file documents with the commission.

(2) A person required to file the form required by this part shall have one (1) attesting witness sign the form before it is submitted to the appropriate authority. The form need not be notarized before it is submitted to the appropriate authority.

(3) Any disclosure filed as a candidate or appointee by a member of the general assembly, the secretary of state, the comptroller of the treasury, the state treasurer, the governor, or an officer of the governor's cabinet, and any amended disclosures filed by any such persons, shall be posted on the website of the commission.

(e) The computation of time within which to do any act required by this part shall be in accordance with § 1-3-102.

8-50-502. Disclosure statements – Contents.

Disclosure shall be made of:

(1) The major source or sources of private income of more than one thousand dollars ($1,000), including, but not limited to, offices, directorships, and salaried employments of the person making disclosure, the spouse, or minor children residing with such person, but no dollar amounts need be stated. This subdivision (1) shall not be construed to require the disclosure of any client list or customer list;

(2) Any investment which the person making disclosure, that person's spouse, or minor children residing with that person has in any corporation or other business organization in excess of ten thousand dollars ($10,000) or five percent (5%) of the total capital; however, it shall not be necessary to state specific dollar amounts or percentages of such investments;

(3) Any person, firm, or organization for whom compensated lobbying is done by any associate of the person making disclosure, that person's spouse, or minor children residing with the person making disclosure, or any firm in which the person making disclosure or they hold any interest, complete to include the terms of any such employment and the measure or measures to be supported or opposed;

(4) In general terms by areas of the client's interest, the entities to which professional services, such as those of an attorney, accountant, or architect, are furnished by the person making disclosure or that person's spouse;

(5) By any member of the general assembly, the amount and source, by name, or any:

(A) Contributions from private sources for use in defraying the expenses necessarily related to the adequate performance of that member's legislative duties. The expenditure of campaign funds by an officeholder for the furtherance of the office of the officeholder is considered an expenditure under title 2, chapter 10, and such expenditures need not be reported under this chapter; and

(B) Travel expenses, including any expenses incidental to such travel, paid on behalf of the member by a person with an interest in a public policy of the state if the travel was for the purpose for informing or advising the member with respect to the public policy. Travel expenses do not include expenses for travel, if such expenses are paid for or reimbursed by a governmental entity or an established and recognized organization of elected or appointed state government officials, staff of government officials, or both officials and staff, or any other established and recognized organization that is an umbrella organization for such officials, staff, or both officials and staff;

(6) Any retainer fee which the person making the disclosure receives from any person, firm, or organization who is in the practice of promoting or opposing, influencing or attempting to influence, directly or indirectly, the passage or defeat of any legislation before the general assembly, the legislative committees, or the members to such entities;

(7) Any adjudication of bankruptcy or discharge received in any United States district court within five (5) years of the date of the disclosure;

(8) (A) Any loan or combination of loans of more than one thousand dollars ($1,000) from the same source made in the previous calendar year to the person making disclosure or to the spouse or minor children unless:

i. The loan is from an immediate family member;

ii. The loan is from a financial institution whose deposits are insured by an entity of the federal government, or such loan is made in accordance with existing law and is made in the ordinary course of business. A loan is made in the ordinary course of business if the lender is in the business of making loans, and the loan bears the usual and customary interest rate of the lender for the category of loan involved, is made on a basis which assures repayment, is evidenced by a written instrument, and is subject to a due date or amortization schedule;

iii. The loan is secured by a recorded security interest in collateral, bears the usual and customary interest rate of the lender for the category of loan involved, is made on a basis which assures repayment, is evidenced by a written instrument, and is subject to a due date or amorti-

zation schedule;

iv. The loan is from a partnership in which the legislator has at least ten percent (10%) partnership interest; or

v. The loan is from a corporation in which more than fifty percent (50%) of the outstanding voting shares are owned by the person making disclosure or by a member of such person's immediate family.

(B) As used in this subdivision (8), “immediate family member” means a spouse, parent, sibling or child; and

(9) Such additional information as the person making disclosure might desire.

8-50-503. Amendments of disclosure statements.

Any disclosure statement shall be amended from time to time as conditions change because of the termination or acquisition of interests as to which disclosure is required.

8-50-504. Filing of amended disclosure statement.

As long as any person required by this part to file a disclosure statement retains office or employment, such person shall file an amended statement with the Tennessee ethics commission or notify the Tennessee ethics commission in writing that such person has had no change of condition which requires an amended statement, not later than January 31 of each and every year, except that a delegate to a constitutional convention shall submit an amended statement with the Tennessee ethics commission or notify the Tennessee ethics commission, in writing, that such person has had no change of condition, not later than fifteen (15) days after the date provided in the call for the convening of the constitutional convention. If January 31 falls on a Saturday, a Sunday, or a legal holiday, § 1-3-102 shall apply.

8-50-505. Enforcement powers.

(a) The Tennessee ethics commission has the jurisdiction to administer and enforce the provisions of this part concerning disclosure statements of conflicts of interest. This enforcement power includes the full range of powers and penalties and procedures established in the title 3, chapter 6 of the extraordinary session of the 104th general assembly.

(b) It is the intent of the general assembly that the sanctions provided in this section are the civil penalties enacted into law by § 3-6-205.

8-50-506. Preferred service employees -- Financial disclosure

(a) No employee in the career service under chapter 30 of this title, shall be required by the appointing authority to submit a disclosure statement or any financial disclosure statement, unless such employee or a member of the employee's immediate family has a financial interest with a value of more than five thousand dollars ($5,000) which would constitute a conflict of interest or a potential conflict of interest under state law or the department of human resources' policy or other departmental policy.

(b) Notwithstanding subsection (a) to the contrary, the appointing authority shall require any employee or person whose duties are to regulate, inspect, audit or procure goods or services or to administer tax laws to disclose the employee's or a member of the employee's immediate family's financial interests that would constitute a conflict of interest or a potential conflict of interest under state law or the department of human resources' policy or other departmental policy. Disclosures are required for individuals who have authority over these persons or these functions.

(c) Disclosure to the immediate supervisor is required at the time an assignment is received which could result in a conflict. The immediate supervisor would then determine if a conflict exists which warrants reassignment of that task to another employee.

(d) The appointing authority has responsibility for clearly communicating these provisions in writing to agency employees upon hiring and annually thereafter.

SECTION 4

ETHICS COMMISSION RULES

RULES
OF
THE TENNESSEE ETHICS COMMISSION

CHAPTER 0580-1-1
RULES PERTAINING TO LOBBYISTS AND EMPLOYERS OF LOBBYISTS

TABLE OF CONTENTS

0580-1-1-.01	Scope and Purpose	0580-1-1-.04	Lobbyist Registration
0580-1-1-.02	Definitions	0580-1-1-.05	Filing of Disclosure Reports
0580-1-1-.03	Employer of Lobbyist Registration	0580-1-1-.06	Violations of Registration & Disclosure Requirements

0580-1-1-.01 SCOPE AND PURPOSE.

(1) Purpose. The purpose of the Tennessee Ethics Commission is to sustain the public's confidence in government by increasing the integrity and transparency of state and local government through regulation of lobbying activities, financial disclosure requirements, and ethical conduct.

(2) Scope. These rules provide for the regulation of lobbying activities through requirements related to the registration and financial disclosure of lobbyists and employers of lobbyists.

Authority: *T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9).* ***Administrative History:*** *Public necessity rule filed August 9, 2006; expired January 21, 2007. Public necessity rule filed February 2, 2007; expired July 17, 2007. Original rule filed March 23, 2007; effective July 27, 2007.*

0580-1-1-.02 DEFINITIONS.

(1) Chief Executive Officer ("CEO"). For the purposes of T.C.A. § 3-6-301(8) and the rules contained in this Chapter, the term "chief executive officer" or "CEO" includes any position in an organization, regardless of the title the organization applies to such position, which is the highest ranking position responsible for the daily management of the organization.

(2) Chief Financial Officer ("CFO"). For the purposes of T.C.A. § 3-6-301(8) and the rules contained in this Chapter, the term "chief financial officer" or "CFO" includes any position in an organization, regardless of the title the organization applies to such position, which is the highest ranking position responsible for the operational financial management of the organization.

(3) Commission. The Tennessee Ethics Commission.

(4) Executive Director. The Executive Director of the Tennessee Ethics Commission.

Authority: *T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9).* ***Administrative History:*** *Public necessity rule filed August 9, 2006; expired January 21, 2007. Public necessity rule filed February 2, 2007; expired July 17, 2007. Original rule filed March 23, 2007; effective July 27, 2007.*

0580-1-1-.03 EMPLOYER OF LOBBYIST REGISTRATION.

(1) Not later than seven (7) days after employing, retaining or otherwise arranging for a lobbyist to engage in lobbying, the employer of a lobbyist shall, as required by T.C.A.

(Rule 0580-01-01-.03, continued)

§§ 3-6-301(8) and 3-6-302, register with the Commission in the form and manner directed by the Commission.

(2) As a component of the registration process, the employer shall verify that the lobbyist who is authorized to represent the employer has delivered to the employer a copy of the Commission ethics manual as required by T.C.A. § 3-6-114(c)(1). In lieu of physical delivery, for the purpose of this rule, the ethics manual shall be considered "delivered" by the lobbyist to the employer if:

(a) the lobbyist provides to the employer the Commission's current internet address where the manual is located; or

(b) a lobbying firm, which provides more than one (1) lobbyist to the employer, mails or e-mails a copy of the ethics manual to the employer with a listing of all individuals who are authorized to lobby for the employer.

(3) An employer of a lobbyist shall, within thirty (30) days of registration, submit a nonrefundable registration fee to the Commission in the form and manner directed by the Commission in the amount of one hundred and fifty dollars ($150.00) per individual lobbyist registered; provided, however, that the Commission may, in its discretion in cases of extreme hardship as determined by a quorum of the Commission, reduce the registration fee or grant a waiver from the registration fee for a duly incorporated not-for-profit organization.

(4) Regardless of whether or not subject to a fee pursuant to the preceeding paragraph (3), registered employers shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.

(5) For the purposes of this Chapter, no registration shall be considered complete until all information and documentation reasonably required to verify compliance with these rules has been received by the Commission and all fees have been received as directed by the Commission.

(6) In the event that the Commission determines that circumstances beyond the lobbyist's control, including, but not limited to technological problems on the Commission's website, prevent the lobbyist from timely submitting forms or fees in the manner, electronic or otherwise, directed by the Commission, the Commission may, in its discretion, allow the form or fee to be submitted in an alternative manner, or may grant the lobbyist a reasonable extension of time to submit the required form or fee in the proper manner.

(7) Amendments. An employer of a lobbyist shall update, correct or otherwise modify the employer of lobbyist's registration statement within seven (7) days of the occurrence of any event, action or changed circumstance that renders the registration statement inaccurate or incomplete.

(a) Employers shall not be required to verify receipt of the Commission ethics manual when amending a current registration.

(b) Registration Following Termination of Lobbyist's Employment. If a lobbyist's employment with the employer is terminated for any reason by either party, but the lobbyist is subsequently re-employed or retained, the employer must submit a new registration form and fee in accordance with the preceeding

(Rule 0580-01-01-.03, continued)

paragraphs (1) through (3), regardless of whether the lobbyist was already registered in the current registration year.

(8) The computation of time within which to do any act required by this part shall be in accordance with T.C.A. § 1-3-102; provided, however, that documentation which has been properly submitted electronically in the form and manner directed by the Commission shall be considered filed at the actual date and time electronically received by the Commission.

Authority: *T.C.A. §§ 3-6-102, 3-6-302, 3-6-304, 3-6-305, 3-6-105, and 3-6-308(a)(9).* ***Administrative History:*** *Public necessity rule August 9, 2006; expired January 21, 2007. Public necessity rule filed February 2, 2007; expired July 17, 2007. Original rule filed March 23, 2007; effective July 27, 2007. Amendment filed November 30, 2007; effective March 23, 2008.*

0580-1-1-.04 LOBBYIST REGISTRATION.

(1) Not later than seven (7) days after becoming a lobbyist, the lobbyist shall, as required by T.C.A. § 3-6-302, register with the Commission in the form and manner directed by the Commission; provided, however, persons engaged solely in monitoring legislation and rule-making activities are not required to register so long as their activities are limited to information-gathering, passive observation of legislative or rulemaking proceedings, reporting to clients, rendering opinions to clients, or advising clients on proposed legislation, rules, executive orders and similar actions; provided, further, the lobbyist and employer must register not later than seven (7) days after the commencement of an agreement to actively communicate, or not later than seven (7) days of the activities and responsibilities otherwise changing from passive monitoring to active direct or indirect communication with legislative or executive officials for the purpose of influencing any legislative or administrative action.

(2) As a component of the registration process, the lobbyist shall verify the delivery of the Commission ethics manual as required by T.C.A. § 3-6-114(c)(1). In lieu of physical delivery, for the purpose of this rule, the ethics manual shall be considered "delivered" by the lobbyist to the employer if:

(a) the lobbyist provided to the employer the Commission's current internet address where the manual is located; or

(b) a lobbying firm, which provides more than one (1) lobbyist to the employer, mails or e-mails a copy of the ethics manual to the employer with a listing of all individuals who are authorized to lobby for the employer. The manual will be considered delivered to the employer by all of the duly authorized lobbyists contained on the list.

(3) A lobbyist shall, within thirty (30) days of registration, submit a nonrefundable registration fee to the Commission in the form and manner directed by the Commission in the amount of one hundred and fifty dollars ($150.00) per individual employer registered; provided, however, that the Commission may, in its discretion in cases of extreme hardship as determined by a quorum of the Commission, reduce the registration fee or grant a waiver from the registration fee for a lobbyist employed by a duly incorporated not-for-profit organization whose only compensation is reimbursement of expenses.

(4) Regardless of whether or not subject to a fee pursuant to the preceeding paragraph (3), registered lobbyists shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration

(Rule 0580-01-01-.04, continued)

year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.

(5) A lobbyist shall, within thirty (30) days of registration, submit a photographic portrait to the Commission for posting on the Commission's web page in the form and manner directed by the Commission; provided, however:

(a) A new photographic portrait is not required for the annual renewal or modification of an existing registration; and

(b) Photographic portraits may be updated or amended no more than annually unless otherwise authorized by the Commission due to technological errors.

(6) For the purposes of this Chapter, no registration shall be considered completed until all information and documentation reasonably required to verify compliance with these rules has been received by the Commission and all fees have been submitted as directed by the Commission.

(7) In the event that the Commission determines that circumstances beyond the lobbyist's control, including, but not limited to technological problems on the Commission's website, prevent the lobbyist from timely submitting forms or fees in the manner, electronic or otherwise, directed by the Commission, the Commission may, in its discretion, allow the form or fee to be submitted in an alternative manner, or may grant the lobbyist a reasonable extension of time to submit the required form or fee in the proper manner.

(8) A lobbyist who registers with the Commission shall be subject to the lobbying restrictions and gift prohibitions contained in T.C.A. §§ 3-6-304 and 3-6-305 for the entire registration year, which runs from October 1 through September 30, even if the lobbyist's employment is terminated.

(9) A lobbyist shall update, correct or otherwise modify the lobbyist's registration statement within seven (7) days of the occurrence of any event, action or changed circumstance that renders the registration statement inaccurate or incomplete.

(a) Lobbyists shall not be required to verify delivery of the Commission ethics manual when amending a current registration.

(b) Registration Following Termination of Lobbyist's Employment. If a lobbyist's employment with the employer is terminated for any reason by either party but the lobbyist is subsequently re-employed or retained the lobbyist must submit a new registration form and fee in accordance with this part, regardless of whether the lobbyist was already registered with that employer in the current registration year.

(10) The Commission may, in its discretion in cases of extreme hardship as determined by a quorum of the Commission, reduce the fee assessed under T.C.A. § 3-6-114(a) or grant a waiver of such fee.

(11) The computation of time within which to do any act required by this part shall be in accordance with § 1-3-102; provided, however, that documentation which has been properly submitted electronically in the form and manner directed by the Commission shall be considered filed at the actual date and time electronically received by the Commission.

(Rule 0580-01-01-.04, continued)
Authority: *T.C.A. §§ 3-6-102, 3-6-104, 3-6-105, 3-6-302, 3-6-304, 3-6-305 and 3-6-308(a)(9).* ***Administrative History:*** *Public necessity rule filed August 9, 2006; expired January 21, 2007. Public necessity rule filed February 2, 2007; expired July 17, 2007. Original rule filed March 23, 2007; effective July 27, 2007. Amendments filed November 30, 2007; effective March 28, 2008.*

0580-1-1-.05 FILING OF DISCLOSURE REPORTS.

(1) In accordance with the provisions of T.C.A. § 3-6-303, each employer of a lobbyist shall file with the Commission in the form and manner directed by the Commission an employer disclosure report on the dates and for the reporting periods specified below:

(a) Mid-year. An employer of lobbyist shall file a mid-year employer disclosure report no later than May 15. Such report shall cover the period from and including October 1 through March 31.

(b) Year-end. An employer of lobbyist shall file a year-end employer disclosure report no later than November 14. Such report shall cover the period from and including April 1 through September 30.

(2) Disclosure of Events Held Under T.C.A. § 3-6-305(b)(8). Each lobbyist and employer of a lobbyist sponsoring an event held under T.C.A. § 3-6-305(b)(8) shall file with the Commission in the form and manner directed by the Commission:

(a) Seven (7) days prior to the event, a copy of any invitations to said event which were provided to all general assembly members; and

(b) an event disclosure report within thirty (30) days of the event; provided, however, if the costs of said event are shared by two (2) or more employers or lobbyists, a consolidated report may be filed in the form and manner directed by the Commission; provided further, however, that the employers shall remain individually accountable for the timeliness and accuracy of the consolidated filing.

Authority: *T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9).* ***Administrative History:*** *Public Necessity Rule filed August 9, 2006; expired January 21, 2007. Public necessity rule filed February 2, 2007; expired July 17, 2007. Original rule filed March 23, 2007; effective July 27, 2007.*

0580-1-1-.06 VIOLATIONS OF REGISTRATION AND DISCLOSURE REQUIREMENTS.

(1) Failure to Register, Amend Registration, or Pay Fees.

(a) If the Executive Director determines that a lobbyist or employer of a lobbyist has failed to timely register or amend their registration with the Commission in the form and manner directed by the Commission, and/or has failed to timely submit to the Commission in the form and manner directed by the Commission the required registration fee, the Executive Director shall provide written notice of the alleged violation to the alleged violator by certified or other mail which verifies delivery; such notice shall provide:

1. a description of the violations, including all relevant rule and statutory citations;

2. a description of the actions which must be taken to correct the violations;

(Rule 0580-01-01-.06, continued)

3. a reasonable date certain by which such corrections must be made in order to avoid enforcement action; and

4. the potential penalties for failing to timely correct the violations.

(b) In the event the lobbyist or employer of lobbyist fails to properly correct the violations as detailed in the notice set forth in paragraph (a) above, the Executive Director shall send a written notice by certified or other mail which verifies delivery, to the lobbyist or employer informing the lobbyist or employer that the violations will be reviewed at the next regularly-scheduled Commission meeting for the assessment of civil penalties pursuant to T.C.A. § 3-6-306; in addition, such notice shall inform the employer or lobbyist of the date, time and location of the meeting in which the Commission will consider the violations.

(2) Civil Penalties. Civil penalties shall be issued by the Commission, and are subject to review or appeal, in accordance with the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301, et seq., and T.C.A. § 3-6-306.

Authority: *T.C.A. §§ 3-6-102, 3-6-105, and 3-6-308(a)(9).* ***Administrative History:*** *Public Necessity Rule filed August 9, 2006; expired January 21, 2007. Public necessity rule filed February 2, 2007; expired July 17, 2007. Original rule filed March 23, 2007; effective July 27, 2007.*

RULES
OF THE
TENNESSEE ETHICS COMMISSION
CHAPTER 0580-01-05
RULES PERTAINING TO PROHIBITED CONDUCT

TABLE OF CONTENTS

0580-01-05-.01	Purpose and Scope	0580-01-05-.03	Prohibited Activities
0580-01-05-.02	Definitions	0580-01-05-.04	Personal Gift Exception

0580-01-05-.01 PURPOSE AND SCOPE.

These rules are promulgated for the purpose of proscribing prohibited conduct and exceptions to these prohibitions for lobbyists, employers of lobbyists, candidates and officials of the executive and legislative branches, and immediate family members of such candidates and officials, pursuant to T.C.A. §§ 3-6-304 through 3-6-305.

Authority: *T.C.A. §§3-6-107(1), 3-6-304 through 305, 3-6-308(a)(9).* ***Administrative History:*** *Original rule filed February 3, 2009; effective June 26, 2009.*

0580-01-05-.02 DEFINITIONS.

(1) Commission. The Tennessee Ethics Commission.

(2) Official. A person who is an "official in the executive branch" of state government, as defined in Tenn. Code Ann. § 3-6-301(19), or a person who is an "official in the legislative branch" of state government, as defined in Tenn. Code Ann. § 3-6-301(20).

Authority: *T.C.A. § §3-6-107(1), 3-6-103(a)(1), 3-6-301.* ***Administrative History:*** *Original rule filed February 3, 2009; effective June 26, 2009.*

0580-01-05-.03 PROHIBITED ACTIVITIES.

(1) No lobbyist, employer of a lobbyist, Official, or such Official's immediate family, as those terms are defined in these rules and by T.C.A. § 3-6-301, shall engage in any conduct prohibited by T.C.A. § 3-6-304.

(2) No lobbyist or employer of a lobbyist shall provide, directly or indirectly, to a candidate for public office, an Official, or the immediate family of such candidate or Official, a gift as prohibited in T.C.A. § 3-6-305, nor shall the candidate, Official, or immediate family thereof accept such a gift, except as allowed by T.C.A. § 3-6-305 or these Rules.

(3) The ban on campaign contributions set forth in T.C.A. § 3-6-304(j) does not prohibit contributions by a lobbyist to an incumbent legislator or governor that are made in support of his or her election to a federal office.

(4) Campaign contributions from a lobbyist to an incumbent legislator who is running for a local public office are prohibited.

Authority: *T.C.A. §§ 3-6-107(1), 2-10-310(a)(2), 3-6-301(12), 3-6-304 through 3-6-305, 3-6-308(a)(9).* ***Administrative History:*** *Original rule filed February 3, 2009; effective June 26, 2009.*

0580-01-05-.04 PERSONAL GIFT EXCEPTION.

(1) Gifts given for a non-business purpose and motivated by a close personal friendship are not subject to the gift ban pursuant to T.C.A. § 3-6-305(b)(3).

(2) In determining whether a gift is motivated by a close personal friendship, the Commission may consider factors including, but not limited to, the following, giving them such weight as may be appropriate in the facts and circumstances of each case:

(a) Whether the lobbyist or individual who is an employer of a lobbyist paid for or provided the gift out of his or her own personal funds or account, or whether the gift is instead being charged to the lobbyist's business account, an employer of the lobbyist, or a lobbying firm.

(b) Whether the cost of the gift is taken as a business deduction by the lobbyist, a lobbying firm, or employer of the lobbyist.

(c) Whether there has been a history of gift giving between the lobbyist or the employer of a lobbyist, on the one hand, and the candidate, Official, or his or her immediate family, on the other hand; and the nature of the previous gift giving.

(d) Whether the candidate, Official, or immediate family member has reciprocated with a gift to the lobbyist or the employer of the lobbyist in the past, and whether the gift has been of similar value.

(e) Whether the lobbyist or the employer of a lobbyist provides the same or similar items to other candidates, Officials, or the immediate families of such candidates or Officials at the same time, who are not also close personal friends.

(f) Whether the timing and circumstances of the gift are appropriate; whether a lobbyist or an employer of a lobbyist has a matter that is currently before or will shortly be before the Official.

(g) In the case of a gift given by an individual who works for an employer of a lobbyist, whether the gift-giver is involved in lobbying activities on behalf of the employer.

Authority: *T.C.A. §§ 3-6-107(1); 3-6-305(b)(3), 3-6-308.* ***Administrative History:*** *Original rule filed February 3, 2009; effective June 26, 2009.*

SECTION 5

SUMMARY OF ADVISORY OPINIONS

Tennessee Ethics Commission

Advisory Opinions

Advisory Opinion	Abstract
Advisory Opinion 14-01	Whether utility district commissioners are required to file Statements of Interest with the Tennessee Ethics Commission pursuant to T.C.A. § 8-50-501 et seq
Advisory Opinion 09-01	Whether Housing Industry PAC is controlled by an employer of a lobbyist and therefore prohibited from making campaign contributions to a gubernatorial candidate during legislative session pursuant to Tenn. Code. Ann. § 3-6-304(i).
Advisory Opinion 08-09	Whether members of the Tennessee Commission on Uniform Legislation are "officials in the legislative branch" as defined by Tenn. Code Ann. § 3-6-301(20), and if so whether persons communicating with such members for compensation for the purpose of influencing legislative action or administrative action are engaged in "lobbying" as defined in Tenn. Code Ann. § 3-6-301(15)and must therefore register as lobbyists as required by Tenn. Code Ann. § 3-6-302.
Advisory Opinion 08-08	Interpretation of T.C.A. §§ 3-6-305(b)(2),(b)(4) and (b)(7) with respect to whether State Officials may attend a conference partially funded by employers of lobbyists, and accept free materials and promotional items provided by the employers of lobbyists in connection with the conference.
Advisory Opinion 08-07	Interpretation of Tenn. Code Ann. §§ 3-6-117 with regard to whether requests for informal responses are confidential, and whether the responses are public records.
Advisory Opinion 08-06	Interpretation of T.C.A. § 3-6-301(11) with respect to whether an official in the executive branch whose registration fee for a conference or educational seminar is waived by an employer of a lobbyist may receive refreshments incidental to the conference or educational seminar if these refreshments are included in the registration fee.
Advisory Opinion 08-05	Interpretation of T.C.A. §§ 3-6-301 and 3-6-305 with respect to whether the Ethics Reform Act permits an employer of a lobbyist to provide, and a general assembly member to receive, benefits provided in connection with a reception for Tennessee delegates at a national party convention.
Advisory Opinion 08-04, Part II	Interpretation Tenn. Code Ann. §§ 3-6-305(b) with regard to whether any of the exceptions to the gift ban contained therein allow state officials who are members of a non-profit organization to solicit contributions from employers of lobbyists for the purpose of supporting a conference of state government officials.
Advisory Opinion 08-04, Part I	Whether Tenn. Code Ann. § 3-6-305(a)(2), places restrictions on various fundraising activities of a professional association whose membership includes state officials, or upon the participation of those state officials in such activities.

Advisory Opinion 08-03	Interpretation of T.C.A. § 3-6-305 with respect to whether the Act prohibits an employer of a lobbyist from paying the expenses of a "politically active" stroke survivor who is also an official in the executive branch to travel to Washington, D.C. to participate in an annual "Lobby Day."
Advisory Opinion 08-02	Interpretation of T.C.A. § 3-6-301(8) with respect to acceptance of an award, reimbursement of expenses and an honorarium from a national professional organization
Advisory Opinion 08-01	Interpretation of T.C.A. § 3-6-305 with respect to an employer of a lobbyist providing commemorative bottles of wine and glasses to members of the Legislature in connection with an all-legislative and in-state event.
Advisory Opinion 07-12	Interpretation of T.C.A. §§ 3-6-301, et seq., with respect to whether a lobbyist, employer of a lobbyist, or lobbying firm may host a fundraiser or provide a venue for a fundraising event for a member or candidate for the Tennessee General Assembly.
Advisory Opinion 07-10	Interpretation of T.C.A. § 3-6-301, et seq. regarding lobbyist registration requirements for employees of public relations firms.
Advisory Opinion 07-09	T.C.A. §3-6-301(15); Registration Requirements of Transportation Authority
Advisory Opinion 07-07	Interpretation of T.C.A. §§ 3-6-304 and 3-6-305, with respect to an employer of a lobbyist's ability to provide travel expenses and otherwise underwrite professional conferences.
Advisory Opinion 07-06	T.C.A. §3-6-301(8); Employer Registration Requirements for Lobbyist Retained w/o Authorization
Advisory Opinion 07-05	T.C.A. §3-6-304(j); Application of Ban on Campaign Contributions to Various Types of Candidates
Advisory Opinion 07-04	T.C.A. §§2-10-122, 125, 126; Requirements for Filing Disclosure of Consulting Services
Advisory Opinion 07-03	Interpretation of § T.C.A. 3-6-304(j) with respect to whether a lobbyist make may campaign contributions in her capacity as an as an officer of a political action committee.
Advisory Opinion 07-02	T.C.A. §3-6-305(b)(6); Participation of General Assembly Members in Charitable Events
Advisory Opinion 07-01	T.C.A. §3-6-301, *et seq.*; Application of Gift Ban to Affiliate Members
Advisory Opinion 06-03	T.C.A. §3-6-301, *et seq.*; Registration Requirements for Persons Monitoring Legislation
Advisory Opinion 06-02	T.C.A. §§3-6-301(15) & (17); Registration Requirements for Attorneys
Advisory Opinion 06-01	T.C.A. § 3-6-301, *et seq.*; Commencement of Lobbyist Registration Deadline

SECTION 6

EXAMPLES OF GIFT QUESTIONS

EXAMPLES OF GIFT & GIFT RELATED QUESTIONS
(T.C.A. §§ 3-6-301, 3-6-304, & 3-6-305)

These are examples only. Please contact the staff of the Bureau of Ethics and Campaign Finance for assistance with your particular question.

1. A lobbyist has invited you to dinner and offered to pay. Can you accept the invitation to dinner?

   No, the lobbyist may <u>not</u> pay for your dinner; however, you may attend dinner with the lobbyist and pay for your own meal. As a general rule, a lobbyist may not provide a gift to an official in the legislative or executive branch or their immediate family unless one the gift exception listed in T.C.A. § 3-6-305 applies.

2. You are in Nashville while the Legislature is in session (you are receiving per diem) and the CEO of a company which employs a lobbyist invites you to be their guest to dinner. Can you accept the dinner?

   The CEO of a company which employs a lobbyist is considered an "employer of a lobbyist" by definition. Therefore, you may <u>not</u> accept a dinner paid for by the CEO of a company which employs a lobbyist. As a general rule, an employer of a lobbyist may not provide a gift to an official in the legislative or executive branch or their immediate family unless one the gift exceptions listed in T.C.A. § 3-6-305 applies.

3. A constituent, who has been seeking a license from the State, wants to take you out for a meal. You have checked the Commission's website and she has not employed a lobbyist and she verifies that fact. May you accept the invitation?

   Yes, gifts from entities that are neither lobbyists nor employers of lobbyists are permissible.

4. A telecommunications company that is the employer of a lobbyist sent you an invitation to attend a football tailgate party. It appears that the invitation has been sent to the entire membership of the General Assembly. You go to the Commission's website (http://www.tn.gov/sos/tec) and select In-State Events under Public Searches and see that the invitation has been posted. May you accept the invitation?

   Yes, you may accept the invitation because the tailgate party is an "in-state event" to which all members of the Legislature have been invited and you reasonably believe that the per person cost of the event is less than $63. See T.C.A. § 3-6-305(b)(8).

5. The same situation as (4) except that you do not see the lobbyist's invitation on the Commission's website and/or you learn that not all members of the Legislature have been invited. Can you accept the invitation to the tailgate party?

   No, there is no exception for the lobbyist's gift under this scenario.

6. Mary is a member of the General Assembly. Jim, her husband, works for a company that is an employer of a lobbyist, Bob. At Thanksgiving the company customarily provides frozen turkeys to all its employees, Bob delivers the turkeys to the employees. May Jim accept the turkey?

   Yes, because it a customary gift from the company to its employees. An exception to the gift ban allows officials and their family to receive benefits resulting from employment which are customarily provided to others in similar circumstances and are not enhanced due to the status of the official. See T.C.A. § 3-6-305(b)(1).

7. You're at home in your district after adjournment of first annual session of the 111th General Assembly. A company, which employs a lobbyist, invites you to take a tour of their factory. After the tour, the company wants to provide lunch at the factory cafeteria. May you accept the tour and lunch?

   Yes, an exception to the gift ban allows officials to receive food, refreshments, meals, or beverages that are provided by an employer of a lobbyist in connection with an in-state event to which the official has been invited. For the purposes of a member of the General Assembly, this exception requires an invitation; the gift not exceed $63.00 per event per day; the employer not exceed an aggregate of $126 for the official per calendar year; the member <u>not</u> receive legislative per diem on the day of the event; the member <u>not</u> receive gifts not provided to nonmembers in attendance; and, an officer or management-level employee of the employer of the lobbyist attend the event (a lobbyist is not considered an officer or management-level employee for the purposes of this exception). See TCA § 3-6-305(b)(10).

8. Same situation as (7). At the end of the factory tour, the company gives you a goody bag which includes a baseball cap and coffee mug with the company's name on them. The company's representative says that they provide the goody bag to all of its customers and suppliers. May you accept?

   Yes, the goody bag in this scenario is a promotional item which is routinely provided in the ordinary course of business. See T.C.A. § 3-6-305(b)(4).

9. You are asked to be part of a panel discussion of a membership organization that employs a lobbyist. As part of the event lunch is provided to everyone in attendance. May you accept the lunch?

Yes, as a speaker on a panel of a membership organization that holds regular meetings you may accept a meal that does not exceed $63 in value. See T.C.A. § 3-6-305(b)(9).

10. You would like to provide some of your constituents a holiday bag filled with small trinkets. May you ask companies which employ lobbyists for trinkets to fill the goody bags?

    No, you may not solicit a gift from an employer of a lobbyist, even if the gift is intended for a third party. See T.C.A. § 3-6-305(a)(2).

11. If I have a long-time friend, who subsequently registers to lobby, what are the limitations on gifts, (Christmas or birthday) and going to dinner or lunch? How does this apply to a family member who is a registered lobbyist?

    You would have to look at the specifics for each "gift" (including meals). An exception to the gift ban allows certain gifts, as authorized by the Commission, given for a nonbusiness purpose and motivated by a close personal friendship. See T.C.A. § 3-6-305(b)(3). Commission Rule 0508-01-05-.04 provides guidance as to this exception and can be found on the last page of Section 4 (above). As to a family member, "gift" does not include a personal gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or the person's spouse or from the spouse of any such relative. See T.C.A. § 3-6-301(10).

12. When my school board or mayor and commissioners come and visit the legislature they often invite me to dinner. Is this okay or should I be paying for my own dinner?

    They can pay for your meal. Lobbying does not include communications from an elected or appointed public official performing the duties of the office held. In addition, the city or county is specifically exempted from the definition of "employer of a lobbyist" so if they charge the meal back to the city or county it would not be considered a meal paid for by an "employer of a lobbyist". See TCA § 3-6-301(16)(D).

13. NCSL, ALEC AND SLC host meetings throughout the year which are sponsored by corporations who employ lobbyist. Many times, the host organization (NCSL, ALEC, SLC), offers to pay all or part of the expenses for these meetings. Is this allowed?

    Yes, TCA § 3-6-305(b)(7)(A) and (B) provides an exemption for this situation.

14. Often when attending a meeting/conference hosted by NCSL, ALEC, or SLC a company or companies will host a "state night" dinner for attendees (elected officials

and staff). The host companies are employers of lobbyists. Is it permissible to attend these dinners?

Yes, TCA § 3-6-305(b)(7)(B) provides an exemption for State Night dinners in this situation.

15. At Christmas, some companies send a tin of nuts, calendar, etc. to my office. These companies do not employ a lobbyist. Is there a prohibition against accepting these items? If a company is a member of an association which employs a lobbyist, is the answer different?

    There is no prohibition against accepting these gifts. A company that is a member of an association which employs a lobbyist is not deemed to be the employer of a lobbyist and therefore the gift is still allowable. The exception to this would be if the lobbyist or employer of a lobbyist directed the gift to be given. This would violate T.C.A. § 3-6-305(a)(1) which states a gift may not be given directly or indirectly by a lobbyist or employer of a lobbyist.

16. Mike's law firm purchased a suite for the upcoming hockey season. Mike is the only registered lobbyist in the firm. Mike is not a hockey fan but asks the managing partner to invite several key members of the General Assembly as the firm's guests. The managing partner invites the members Mike suggested. Is this permissible?

    No, because Mike may not provide a gift, directly or indirectly, to the invited legislators. A lobbyist may not provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediately family of such candidate or official. See, T.C.A. § 3-6-305(a)(1). In this instance, while the firm is not an employer of a lobbyist, Mike's involvement makes the event invitation from the firm an indirect gift from a lobbyist to the legislative officials invited.

17. Tom is a member of the General Assembly. After ordering lunch at a downtown sandwich shop, he realizes his wallet is on his desk. Bill, a lobbyist, is next in line and offers to loan Tom $10.00 for his $9.58 lunch. Since they're daily sandwich shop regulars, Bill says "just pay me back tomorrow". Tom knows Bill is a lobbyist. May Tom accept the loan?

    No. A lobbyist may not make, and an official may not solicit or accept, a loan from a lobbyist. See T.C.A. § 3-6-304(d) and (e).

18. My father-in-law resides with my spouse and me. He's an avid golfer and has been invited to attend a professional golf event in Memphis by a company that employs a lobbyist. May he accept the invitation?

Yes, he may accept the invitation. For purposes of the T.C.A. Title 3, Chapter 6, Part 3, "immediately family" means a spouse or minor child living in the household. See T.C.A. § 3-6-301(11).