

TENNESSEE CAMPAIGN FINANCIAL DISCLOSURE LAWS

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PART 1
FINANCIAL DISCLOSURE

2-10-101. Short title - Application - Administration - Adoption of more stringent requirements.

(a) This part shall be known and may be cited as the “Campaign Financial Disclosure Act of 1980.”

(b) The provisions of this part do not apply to any candidate for public office for which the service is part time and for which the compensation is less than one thousand dollars (\$1,000) per month; provided, that this exemption shall not be applicable to any such candidate for a public office as a chief administrative officer or to any such candidate whose expenditures exceed one thousand dollars (\$1,000).

(c) Any charter provisions of municipalities regarding campaign financial disclosures of candidates for public office apply to candidates for public office, except to the extent that such provisions are in conflict with the provisions of this part.

(d) The registry of election finance shall have the jurisdiction to administer and enforce the provisions of this part concerning campaign financial disclosure.

(e) Nothing in this part shall be construed as prohibiting the largest municipality located within any county having a population of not less than three hundred thirty-five thousand (335,000) nor more than three hundred thirty-six thousand (336,000), according to the 1990 federal census or any subsequent federal census, from enacting, by ordinance or charter amendment, more stringent financial disclosures of candidates for municipal local public office than those requirements imposed by the provisions of this part. A municipality adopting more stringent requirements pursuant to this chapter shall compensate the county for any additional expenses incurred by the county election commission as a result of adopting more stringent requirements.

2-10-102. Chapter definitions.

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

(1) “Affiliated political campaign committees” means political campaign committees established, financed, maintained, or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons;

(A) All committees established, financed, maintained or controlled by a single corporation and/or its subsidiaries shall be affiliated political campaign committees;

(B) All committees established, financed, maintained or controlled by a single national or international union and/or its local unions or other subordinate organizations shall be affiliated political campaign committees;

(C) All committees established, financed, maintained or controlled by an organization of national or international unions and/or all its state and the local central bodies shall be affiliated political campaign committees, but such committees shall not be affiliated with the political campaign committees established, financed, maintained or controlled by any union that is a member of the organization;

- (D) All committees established, financed, maintained or controlled by a membership organization, other than political party committees, including trade or professional associations and/or related state and local entities of that organization or group shall be affiliated political campaign committees;
- (E) All committees established, financed, maintained or controlled by the same person or group of persons shall be affiliated political campaign committees;
- (F) Owners, officers, employees, members or other individuals associated with any corporation, labor organization, membership organization, or any other person or group of persons that has established, financed, maintained or controlled a political campaign committee shall not be considered affiliated with such political campaign committee;
- (2) “Attorney general and reporter” means the attorney general and reporter of Tennessee;
- (3) “Candidate” means an individual who has made a formal announcement of candidacy or who is qualified under the law of this state to seek nomination for election or elections to 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 the individual's nomination for election or election to state public office;
- (4) “Contribution” means any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, personal funds of a candidate, payment, gift, or subscription of money or like thing of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, made for the purpose of influencing a measure or nomination for election or the election of any person for public office or for the purpose of defraying any expenses of an officeholder incurred in connection with the performance of the officeholder's duties, responsibilities, or constituent services. “Contribution” shall not be construed to include the following:
- (A) Services, including expenses provided without compensation by a candidate or individuals volunteering a portion or all of their time, on behalf of a candidate or campaign committee;
- (B) Any news story, commentary or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other periodical publication, unless such facilities are owned wholly or in part, or controlled by any political party, political committee or candidate;
- (C) Nonpartisan activity designed to encourage individuals to register to vote or to vote;
- (D) Any written, oral or electronically transmitted communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to public office;
- (E) The use of real or personal property and the cost of invitations, food and beverages not exceeding one hundred dollars (\$100), voluntarily provided on an individual's residential premises for candidate related activities; or
- (F) For a county executive committee that has annual receipts and expenditures of less than ten thousand dollars (\$10,000), receipts and expenditures, including a reasonable amount for rent, by a state or county executive committee or primary board when performing the duties imposed upon them by law; provided, that such receipts and expenditures are segregated from and maintained in a fund separate and apart from any funds used by the party as a political campaign committee, it being the legislative intent that if no separate fund is maintained, all receipts and expenditures of the committee or board shall be subject to the disclosure provisions of this part;
- (5) “Election” means any general, special or primary election or run-off election, held to approve or disapprove a measure or nominate or elect a candidate for public office;
- (6) (A) “Expenditure” means a purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made for the purpose of influencing a measure or the nomination for election or election of any person to public office;
- (B) “Expenditure” also includes the use of campaign funds by an officeholder for the furtherance of the office of the officeholder;
- (7) “File” or “filed” means the date actually deposited with or received by the appropriate office or the date of the postmark if postmarked and sent by registered or certified mail of the United States postal service;
- (8) “Measure” means any proposal submitted to the people of the entire state, or any political subdivision of the state, for their approval or rejection at an election, including any proposed law, act or part of an act of the general assembly, or revision of or amendment to the constitution;

(9) "Multicandidate political campaign committee" means a political campaign committee to support or oppose two (2) or more candidates for public office or two (2) or more measures;

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

(B) Any limited liability company or limited liability partnership created under title 48 shall be considered a person for the purpose of this subdivision (10) and subdivision (1);

(11) "Personal funds" means:

(A) Any assets which the candidate had legal right of access to or control over at the time the candidate became a candidate and with respect to which the candidate had either:

(i) Legal and rightful title; or

(ii) An equitable interest;

(B) Salary and other earned income from bona fide employment;

(C) Dividends and proceeds from the sale of the candidate's stocks or other investments;

(D) Bequests to the candidate; income from trusts established before candidacy;

(E) Income from trusts established by bequest after candidacy of which the candidate is the beneficiary;

(F) Gifts of a personal nature which had been customarily received prior to candidacy; and

(G) That portion of assets jointly owned with the candidate's spouse which is the candidate's share under the instruments of conveyance or ownership. If no specific share is indicated by such instrument, the value of one-half of the property used shall be considered as personal funds;

(12) "Political campaign committee" means:

(A) Any corporation or any other organization making expenditures, except as provided in subdivision (4), to support or oppose a measure; or

(B) Any committee, club, corporation, association or other group of persons which receives contributions or makes expenditures to support or oppose any candidate for public office or measure during a calendar year in an aggregate amount exceeding one thousand dollars (\$1,000);

(13) "Public office" means any state public office or local public office filled by the voters;

(A) "Local public office" means any state, county, municipal, school or other district or precinct office or position, including general sessions and juvenile court judges, that is filled by the voters, with the exception that "local public office" does not include any state public office as defined in subdivision (13)(B); and

(B) "State public office" means the offices of governor, member of the general assembly, delegate to a Tennessee constitutional convention, trial judge, chancellor, district attorney general, district public defender, judge of the court of criminal appeals, judge of the court of appeals and supreme court judge; and

(14) "Secretary of state" means the secretary of state or the secretary of state's designee;

2-10-103. Duties of county election commissions.

(a) It is the duty of each county election commission to:

(1) Accept and file any information filed pursuant to the requirements of this part and information voluntarily supplied that exceeds the requirements of this part;

- (2) Make statements and other information filed with it available for public inspection and copying during regular office hours at reasonable expense;
- (3) Preserve such statements and other information for a period of five (5) years from date of receipt; and
- (4) Notify all candidates for local public office in a local election of the requirements for filing any statement required by this part seven (7) days before any deadline provided for herein.

(b) It is the duty of the state election commission to furnish the name and address of any candidate for statewide public office and the language of any measure submitted to the people of the entire state to the secretary of state and the registry of election finance.

2-10-104. Affirmation of statements before witness.

All statements required by this part shall be signed by the person filing such statement in the presence of one (1) witness who shall sign such statements as a witness. The treasurer shall not be authorized to sign as a witness. Such person shall sign the statements prior to the filing of the statements. Statements required by this part do not have to be sworn to or affirmed by a notary.

2-10-105. Filing of contribution, loan and expenditure statements - Deadlines - Certification of treasurers and other officers - Retention of records - Additional reporting requirements.

(a) Each candidate for state public office and political campaign committee in a state election shall file with the registry of election finance a statement of all contributions received and all expenditures made by or on behalf of such candidate or such committee. The statement of each candidate for state public office shall include the date of the receipt of each contribution, and the statement of a political campaign committee in a state election shall include the date of each expenditure that is a contribution to a candidate in any election.

(b) Each candidate for local public office and political campaign committee for a local election shall file with each county election commission of the county where the election is held a statement of all contributions received and all expenditures made by or on behalf of such candidate or such committee. The statement of each candidate for local public office shall include the date of the receipt of each contribution, and the statement of a political campaign committee for a local election shall include the date of each expenditure that is a contribution to a candidate in any election.

(c) (1) The statements required by subsections (a) and (b) of each candidate, each single candidate political campaign committee, single measure political campaign or multicandidate political campaign committee shall be filed quarterly during an election year, within ten (10) days following the conclusion of the quarterly reports ending March 31, June 30, September 30 and January 15. Such candidate and political campaign committees shall also be required to file a pre-primary statement and pre-general election statement. The pre-primary statement shall cover the period from the last day included in the July quarterly statement through the tenth day before the primary election. Such pre-primary statement is due seven (7) days before the primary election. The pre-general election statement shall cover the period from the last day included in the October quarterly statement through the tenth day before the general election. Such pre-general election statement is due seven (7) days before the general election.

(2) Statements for any runoff election, from the last day included in any prior report through the tenth day before any such election shall be filed not later than seven (7) days before the election.

(3) Any candidate or political campaign committee filing a statement pursuant to subsection (c) before January 1 of the year in which the candidate or committee expects to be involved in an election shall file reports with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), by January 31 and July 15 immediately succeeding the filing, and semi-annually thereafter until the year of the election. If January 31 or July 15 falls on a Saturday, a Sunday, or a legal holiday, the provisions of § 1-3-102 shall apply. The ending date of the January 31 reporting period is January 15. The ending date of the July 15 reporting period is June 30. A semiannual report is not required to be made if the reporting date is within sixty (60) days of a report otherwise required by this part.

(4) Each statement required by subsections (a) and (b) shall include transactions occurring since the preceding statement.

(d) Each multicandidate political campaign committee shall file reports according to subsection (c)(1). Each report shall include transactions occurring since the preceding report. Such reports shall be made available on the Internet as soon as practicable once such multicandidate political campaign committee has filed such information and the registry has reviewed such statements for accuracy and timeliness. If a multicandidate political campaign committee has not timely filed a quarterly report, then the registry shall post on the Internet that the multicandidate political campaign committee is delinquent.

(e) (1) Each candidate and each political campaign committee shall certify the name and address of the candidate's or committee's political treasurer to the registry of election finance or the county election commission, where appropriate, before the candidate or

committee may receive a contribution or make an expenditure in a state or local election. A statement certifying a candidate's treasurer must contain the office the candidate is seeking and the year of the election. A state public officeholder shall also certify the name and address of such officeholder's political treasurer to the registry of election finance before the officeholder or the officeholder's political committee may accept a contribution to defray the expenses incurred in connection with the performance of the officeholder's duties or responsibilities, and a local officeholder shall so certify the name and address of such officeholder's treasurer to the appropriate county election commission. A candidate may serve as that candidate's own political treasurer. A candidate or political campaign committee shall notify the registry of election finance or county election commission of any changes in the office of its political treasurer. Any such statements filed pursuant to this part shall be cosigned by the candidate, if such candidate appoints a political treasurer other than the candidate.

(2) In addition to the requirements in subdivision (e)(1), a multicandidate political campaign committee shall also certify the name and address of all officers of such committee to the registry of election finance. A multicandidate political campaign committee is required to have at least one (1) officer, not including the treasurer of such committee.

(f) All records used by the candidate or political campaign committee to complete a statement required by this part shall be retained by the candidate or political campaign committee for at least two (2) years after the date of the election to which the records refer or the date of the statement, whichever is later. After the two-year period, the candidate or political campaign committee is authorized to destroy such records, absent any pending investigation by the registry of election finance or any other law enforcement agency, or absent any administrative or court proceeding. Once an investigation is closed by the registry of election finance, records may be destroyed upon a petition for approval to the registry of election finance.

(g) Separate reporting shall be required for both primary elections and general elections. Cumulative reporting for both primary and general elections for the same office in the same year is expressly prohibited. An appointment of a political treasurer pursuant to subsection (e) may be cumulative, and one (1) such appointment shall be sufficient for both a primary and general election for the same office in the same year. A successful primary candidate shall not be required to certify a political treasurer for the general election, if the candidate had previously certified such political treasurer prior to the primary election.

(h) (1) During the period beginning at twelve o'clock (12:00) midnight of the tenth day prior to a primary, general, runoff or special election or a referendum and extending through twelve o'clock (12:00) midnight of such election or referendum day, each candidate or political campaign committee shall, by telegram, facsimile machine, hand delivery or overnight mail delivery, file a report with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), of:

(A) The full name and address of each person from whom the candidate or committee has received and accepted a contribution, loan or transfer of funds during such period and the date of the receipt of each contribution in excess of the following amounts: a committee participating in the election of a candidate for any state public office, five thousand dollars (\$5,000); or, a committee participating in the election of a candidate for any local public office, two thousand five hundred dollars (\$2,500). If the committee is participating in the election of candidates for offices with different reporting amounts, the amount shall be the lowest for any candidate in whose election the committee is participating or in which any committee is participating to which it makes or from which it receives a transfer of funds; and

(B) Such report shall include the amount and date of each such contribution or loan reported, and a brief description and valuation of each in-kind contribution. If a loan is reported, the report shall contain the name and address of the lender, of the recipient of the proceeds of the loan, and of any person who makes any type of security agreement binding such person or such person's property, directly or indirectly, for the repayment of all or any part of the loan.

(2) Each report required by subdivision (h)(1) shall be filed by the end of the next business day following the day on which the contribution to be reported is received.

(3) The registry shall develop appropriate forms for the report required by subdivision (h)(1) and make such forms available to the candidates and the county election commissions.

(i) Any state or local political party or caucus of such political party established by members of either house of the general assembly that controls or operates one (1) or more political campaign committees shall report all receipts and disbursements by the party in the same manner and at the same time that it reports contributions and expenditures by the party's political campaign committee.

(j) Reports filed under this section shall not be cumulative, except as provided in subsection (g) regarding appointment of a political treasurer. Each report shall reflect the total for its own reporting period.

(k) "Date of the receipt", as used in this section, means the date when the contribution was received by the candidate, candidate's committee, or treasurer.

2-10-106. Supplemental semiannual statements of contributions and expenditures - Funds maintained in segregated campaign accounts.

(a) If the final statement of a candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry of election finance or the county election commission, whichever is required by § 2-10-105(a) and (b), a supplemental semiannual statement of contributions and expenditures. Beginning after filing the first quarterly report due after an election, subsequent supplemental statements shall be filed on a semiannual basis by candidates until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate may close out a campaign account by transferring any remaining funds to any campaign fund, subject to the requirements of this part and commence semiannual filing as provided by this part.

(b) Funds maintained in a separate segregated campaign account are not deemed to be the personal property of any candidate or other individual. Such funds are not subject to garnishment or any type of execution to satisfy the debts or obligations of any individual which are not campaign debts.

2-10-107. Content of statements - Closing out accounts - Reporting of in-kind contributions.

(a) A statement filed under § 2-10-105 or § 2-10-106 shall consist of either:

(1) A statement that neither the contributions received nor the expenditures made during the period for which the statement is submitted exceeded one thousand dollars (\$1,000). Any statement filed pursuant to § 2-10-106 shall indicate whether an unexpended balance of contributions, continuing debts and obligations or an expenditure deficit exists; or

(2) (A) (i) A statement setting forth, under contributions, a list of all the contributions received, including the full name, complete address, occupation, and employer of each person who contributed a total amount of more than one hundred dollars (\$100) during the period for which the statement is submitted, and the amount contributed by that person;

(ii) When a candidate or the treasurer of a political campaign committee shows that best efforts have been used to obtain, maintain and submit the complete address, occupation, and employer required for contributors, the statement shall be considered in compliance with this subdivision (a)(2)(A). "Best efforts" includes notifying the contributor by first class mail that further information concerning such contributor is required under state law, or by including on a written solicitation for contributions a clear request for the contributor's name, address, occupation and employer and by accurately stating that such information is required under state law for all persons contributing more than one hundred dollars (\$100). Further definitions and guidelines, if any, for what is also considered "best efforts" shall be set by rule promulgated pursuant to § 4-55-103(1);

(iii) The statement of each candidate shall include the date of the receipt of each contribution and the statement of a political campaign committee shall include the date of each expenditure that is a contribution to a candidate. "Date of the receipt", as used in this subdivision (a)(2)(A)(iii), means the date when the contribution was received by the candidate, candidate's committee, or treasurer. The statement shall list as a single item the total amount of contributions of one hundred dollars (\$100) or less; and

(B) A statement setting forth, under expenditures, a list of all expenditures made, including the full name and address of each person to whom a total amount of more than one hundred dollars (\$100) was paid during the period for which the statement is submitted, the total amount paid to that person, and the purpose of the payment which shall clearly identify that it is an allowable expenditure under § 2-10-114. The words "reimbursement", "credit card purchase", "other" and "campaign expense" shall not be considered acceptable descriptions for "purpose". Any purchase made with a credit card shall also be disclosed as a payment to the vendor providing the item or service. Credit card payments to separate vendors shall be disclosed as separate expenditures. The statement shall list the total amount of expenditures of one hundred dollars (\$100) or less each, by category, without showing the exact amount of or vouching for each such expenditure.

(b) When any candidate or political campaign committee desires to close out a campaign account, it may file a statement to such effect at any time; provided, that the statement shall on its face show no unexpended balance, continuing debts or obligations or deficit.

(c) (1) When filing a statement under § 2-10-105 or § 2-10-106, a contribution, as defined in § 2-10-102, for which no monetary consideration is paid or promised, referred to as an in-kind contribution in this part, shall be listed separately in the disclosure statement and excluded from the lists of contributions and expenditures. The in-kind contribution list shall include:

(A) In-kind contributions of a value of one hundred dollars (\$100) or less may be listed as a single item; and

(B) (i) In-kind contributions of a value of more than one hundred dollars (\$100) during the period for which the statement is submitted, and for each such contribution, the category of the contribution, the name, address, occupation and employer of each person who contributed it.

(ii) When a candidate or the treasurer of a political campaign committee shows that best efforts have been used to obtain, maintain and submit the complete address, occupation, and employer required for contributors, the statement shall be considered in compliance with this subdivision (c)(1)(B). "Best efforts" includes notifying the contributor by first class mail that further information concerning such contributor is required under state law, or by including on a written solicitation for contributions a clear request for the contributor's name, address, occupation and employer and by accurately stating such information is required under state law for all persons contributing more than one hundred dollars (\$100). The registry of election finance shall, by rule, define and set guidelines for what is considered "best efforts."

(iii) The statement of each candidate shall include the date of the receipt of each in-kind contribution and the statement of a political campaign committee shall include the date of each expenditure that is an in-kind contribution to a candidate.

(2) Within ninety (90) days of February 15, 2006, by rule promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the registry of election finance shall enumerate a nonexclusive listing of examples of the various categories of contributions that constitute "in-kind contributions" requiring disclosure. Upon promulgating such rule, the registry shall provide a copy of such rule to each member of the general assembly and each qualified candidate for state office. Any changes or revisions to the rules shall be promulgated pursuant to § 4-55-103(1).

(d) An in-kind contribution is deemed to be made and shall be reportable in the period when such contribution is made or performed and not when the cost is billed or paid. The actual cost of the in-kind contribution, if known, shall be reported in the period such contribution is made or performed. If the actual cost of the in-kind contribution is not known, an estimate of the cost shall be reported in the period such contribution is made or performed, and the report shall indicate that the amount reported is estimated. If the actual cost, as indicated on the bill, is different from the amount reported, such amount shall be amended or adjusted on a later report covering the period in which payment is made.

(e) A statement filed under § 2-10-105 or § 2-10-106 shall also list any unexpended balance, any deficit and any continuing financial obligations of the candidate, campaign or committee.

(f) Payments to a person as reimbursement for expenditures made by the person on behalf of the candidate or committee shall be disclosed as payments to the vendor who provided the item or service to the candidate or committee, not the person who is reimbursed.

2-10-108. Sworn complaint on statements of candidates - Penalty for false complaint.

(a) A registered voter of Tennessee may file a sworn complaint alleging that a statement filed regarding an election for which that voter was qualified to vote does not conform to law or to the truth or that a person has failed to file a statement required by law.

(b) All sworn complaints on a statement of a candidate for state public office or a political campaign committee for such candidate must be filed in the office of the registry of election finance.

(c) All sworn complaints on a statement of a candidate for local public office or a political campaign committee for such candidate must be filed in the office of the district attorney general who represents the judicial district in which the voter resides.

(d) Any person who knowingly and willfully files a sworn complaint which is false or for the purpose of harassment is subject to the civil penalties enacted into law by Acts 1989, ch. 585, and is liable for reasonable attorneys' fees incurred by the candidate who was the subject of such complaint.

2-10-109. Duties of attorney general and reporter.

(a) It is the duty of the attorney general and reporter to:

(1) Advise county election commissions, primary boards and administrator of elections of their duties and responsibilities required by this part;

(2) Provide opinions upon the requirements of this part to the members of the general assembly, district attorneys general, the state and county election commissions, and such other officials who are charged with the administration of this law; and

(3) Represent the registry of election finance in any action or lawsuit in any court of this state.

(b) It is the duty of each district attorney general to:

(1) Investigate any sworn complaint filed in accordance with § 2-10-108(c); and

(2) Seek injunctions from the chancery courts of this state to enforce the provisions of this part against any campaign committee or candidate about whom a sworn complaint has been filed, if such action is justified.

2-10-110. Penalties.

(a) The registry of election finance may impose a civil penalty for a violation of this part as provided in this section.

(1) "Class 1 offense" means the late filing of any report or statement required by this part. 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) For local public offices, the county administrator of elections shall have personally served upon, or send by return receipt requested mail, an assessment letter to any candidate or committee upon the administrator's discovery that a due report has not been filed. The administrator shall forward a copy of such notice to the registry of election finance. For state public offices, the registry of election finance shall have personally served upon, or send by return receipt requested mail, an assessment letter to any candidate or committee upon the registry or its appropriate staff discovering 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; provided, that no civil penalty shall be imposed by the registry of election finance if a candidate fails to list a contribution on a filed report but corrects the omission to the registry's satisfaction within ten (10) business days from the date on which the candidate is served process by, or receives notice from, the registry. This ten-day period shall not serve to stay the running of any time period or reduce any penalty established by this section. A candidate shall only be allowed to correct up to two (2) omissions in one (1) calendar year and the total of the omissions shall not exceed two thousand dollars (\$2,000). Any omission corrected by the candidate prior to the registry's discovery of the omission shall not count against the limitation on correction of omissions.

(B) For any Class 1 offense, the registry of election finance, through its appropriate staff, shall send an assessment letter to a candidate or committee in a form sufficient to advise the candidate or committee 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 candidate or committee for correction, a copy of the original shall be retained on file until the corrected report is returned to the registry of election finance. 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.

(C) To request a waiver, reduction, or to in any way contest a Class 1 penalty imposed by the registry of election finance, a candidate for a state or local public office shall file a petition with the registry of election finance. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) "Class 2 offense" means failing to file a report required by this part 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 this part. A Class 2 offense is punishable by a maximum civil penalty of not more than ten thousand dollars (\$10,000) or fifteen percent (15%) of the amount in controversy, if fifteen percent (15%) of the amount in controversy is greater than ten thousand dollars (\$10,000).

(A) For state and local public offices, the registry of election finance may impose a civil penalty for any Class 2 offense; provided, that no penalty shall be imposed by the registry of election finance if a candidate fails to list a contribution on a filed report but corrects the omission to the registry's satisfaction within ten (10) business days from the date on which the candidate is served process by, or receives notice from, the registry. This ten-day period shall not serve to stay the running of any time period established by this section. A candidate shall only be allowed to correct up to two (2) omissions in one (1) calendar year and the total of the omissions shall not exceed two thousand dollars (\$2,000). Any omission corrected by the candidate prior to the registry's discovery of the omission shall not count against the limitation on correction of omissions.

(B) To request a waiver, reduction, or to in any way contest a Class 2 penalty imposed by the registry of election finance, a candidate for a state or local public office shall file a petition with the registry of election finance. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(C) "Amount in controversy" means, as appropriate to the case, the greater of the total expenditures or total contributions, either of which or both of which are shown on a late report subsequently filed, or the amount of an expenditure or contribution that was not reported or was incorrectly reported.

(b) Penalties imposed under this part shall be deposited into the state general fund.

(c) (1) The registry of election finance shall maintain a register of all civil penalties imposed under this part and remaining unpaid.

(2) 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, or by the qualifying deadline for election, whichever is earlier, the candidate owing such civil penalty shall be ineligible to qualify for election to any state or local public office until such penalty and costs are paid.

(3) If a civil penalty authorized by this section is imposed, it shall be considered as a personal judgment against the candidate.

(d) A candidate for state or local public office who fails to file any statement or report required by this part shall be ineligible to qualify for election to any state or local public office until such statement or report is filed with either the registry or the appropriate county election commission, or both.

(e) It is the intent of the general assembly that the sanctions provided in this section shall be the civil penalties enacted into law by Acts 1989, ch. 585.

(f) (1) For any civil penalty levied by the registry against a multicandidate political campaign committee under this section or § 2-10-308, the treasurer of the committee is personally liable for the penalty.

(2) 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, the multicandidate political campaign committee owing the civil penalty shall be prohibited from receiving contributions; making expenditures to support or oppose candidates; or making expenditures to other multicandidate political campaign committees; and the treasurer and officers of such delinquent multicandidate political campaign committee shall be prohibited from creating another multicandidate political campaign committee or serving as a treasurer or an officer for another multicandidate political campaign committee until such penalty and all costs attendant to the penalty are paid in full.

2-10-111. Notification of local election by county election commission - Report of compliance with statement filings - Reporting of late filings.

(a) Each county election commission shall notify the state election commission and the registry of election finance of each local election held in that county at the same time that public notice is posted for the election.

(b) Each time that a statement for a candidate for local public office or political campaign committee for a local election is due to be filed with the county election commission under § 2-10-105, the county election commission shall file with the registry of election finance a report certifying that all candidates have filed the report timely or a list of all candidates who have failed to report timely. For each local candidate who is reported to the registry of election finance as filing late, the county election commission shall be required to file, on a form prescribed by the registry, information pertaining to the late filing. The registry shall determine by rule what information from the county election commission shall be necessary. Any changes or revisions to the rules shall be promulgated pursuant to § 4-55-103(1).

2-10-112. Application of outstanding balance of campaign account cannot exceed campaign contribution limits.

Notwithstanding any other provision of law to the contrary, any candidate who has a previous campaign account with an outstanding balance and who chooses to apply contributions to that previous campaign account, shall not exceed the campaign contribution limits in title 2, chapter 10, part 3, for the election cycle during which the candidate accepts the contribution, regardless of whether such candidate applies the amount to the previous campaign account or to the current campaign account. Under no circumstances shall the candidate exceed the contribution limits for the election cycle to which the previous campaign account with an outstanding balance applies.

2-10-113. [Repealed.]

2-10-114. Campaign funds - Allocation of unexpended contributions - Use of funds - Specifically prohibited uses of funds - Allocation of funds on death of incumbent or candidate.

(a) Any candidate for public office in this state shall allocate an unexpended balance of contributions after the election to one (1) or a combination of the following:

(1) The funds may be retained or transferred to any campaign fund pursuant to Tennessee reporting requirements;

(2) The funds may be returned to any or all of the candidate's contributors, in accordance with a formula or plan specified in the candidate's disclosure of the allocation;

(3) The funds may be distributed to the executive committee of the candidate's political party;

(4) The funds may be deposited in the volunteer public education trust fund established under title 49, chapter 3, part 4;

(5) The funds may be distributed to any organization described in 26 U.S.C. § 170(c);

(6) The funds may be distributed to an organization that has received a determination of exemption from the United States internal revenue service pursuant to 26 U.S.C. § 501(c)(3) or (4), if such organization is currently operating under such exemption;

(7) The funds may be used to defray any ordinary and necessary expenses incurred in connection with the office of the officeholder. Such expenses may include, but are not limited to, the cost of advertisements, membership fees, and donations to community causes; and

(8) The funds may be distributed to any institution of public or private education in the state, for the purpose of supplementing the funds of an existing scholarship trust or program.

(b) (1) Except as provided in subsection (a), no candidate for public office shall use any campaign funds for any other purpose other than a contribution or expenditure as defined by this part. The disbursement of campaign funds for a candidate's own personal use is not permitted. For the purpose of this section, "personal use" means any use by which the candidate for public office or elected public official would be required to treat the amount of the expenditure as gross income under 26 U.S.C. § 61, or any subsequent corresponding Internal Revenue Code section.

(2) Expenditures that are specifically prohibited under this section include, but are not limited to:

(A) Any residential or household items, supplies or expenditures, including mortgage, rent or utility payments for any part of any personal residence of a candidate or officeholder or a member of the candidate's or officeholder's family;

(B) Mortgage, rent, or utility payments for any part of any nonresidential property that is owned by a candidate or officeholder or a member of a candidate's or officeholder's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage;

(C) Funeral, cremation, or burial expenses related to deaths within a candidate's or officeholder's family;

(D) Clothing, other than items of de minimis value that are used in the campaign;

(E) Tuition payments within a candidate's or officeholder's family other than those associated with training campaign staff or associated with an officeholder's duties;

(F) Dues, fees, or gratuities at a country club, health club, or recreational facility, unless they are part of a specific fundraising event that takes place on the organization's premises;

(G) Salary payments to a member of a candidate's family, unless the family member is providing bona fide services to the campaign. If a family member provides bona fide services to the campaign, any salary payment in excess of the fair market value of the services provided is a prohibited use;

(H) Admission to a sporting event, concert, theater, activity, charitable event or other form of entertainment, unless the event is an expense associated with a legitimate campaign or officeholder activity, where the tickets to such event are provided to students attending schools, guests or constituents of the candidate or officeholder, or persons involved in the candidate's or officeholder's campaign;

(I) Payments for grooming or enhancing one's personal appearance unrelated to campaign activities; or

(J) Payment of any fines, fees, or penalties assessed pursuant to this chapter or title 3, chapter 6.

(3) A violation of this subsection (b) is a Class 2 offense as defined in § 2-10-110(a)(2).

(c) In addition to the manner in which unexpended balances in the campaign account of a candidate may be allocated under the provisions of subsection (a), if an incumbent dies while in office and has an unexpended balance in a campaign account, and if such incumbent's surviving spouse or child is appointed to fill the unexpired term of the deceased incumbent or is elected to the office previously held by the deceased, then the balance remaining in the campaign account of such deceased incumbent shall be transferred to the campaign account of the surviving spouse or child of the deceased incumbent for use by such surviving spouse or child as a candidate for election to public office in accordance with the provisions of this part.

(d) (1) In the event a candidate for public office dies with an unexpended balance of contributions in such candidate's campaign account and the provisions of subsection (c) are not applicable, then the following individuals, in the descending order, are authorized to allocate such unexpended balance to those persons, political parties, or charitable organizations listed in subdivisions (a)(2)-(6) and (a)(8):

(A) The deceased candidate, if the candidate provided for allocation of an unexpended balance through the candidate's will;

(B) The deceased candidate's treasurer, unless the candidate was the treasurer;

(C) The surviving spouse of the deceased candidate, if the candidate was the treasurer; and

(D) The next of kin of the deceased candidate, if the provisions of subdivisions (d) (1)(B) and (C) do not apply.

(2) If a decision is not made by any such individual, or individuals where subdivision (d)(1)(D) applies, within one (1) year of the date of death of the deceased candidate, then the unexpended balance shall be distributed by the registry of election finance to the volunteer public education trust fund established under title 49, chapter 3, part 4.

(e) Notwithstanding the provisions of subsection (a), if a member of the general assembly raises funds for a local public office during the time the general assembly is in session in accordance with § 2-10-310(a), then any unexpended balance of contributions in the campaign account established by that member of the general assembly for the member's candidacy for local public office shall not be used for or distributed to a campaign fund:

(1) For the benefit of any election for any candidate for the general assembly;

(2) For the benefit of any statewide election, or any state, national or other political party;

(3) For the benefit of any state, national or other political party caucus; or

(4) For the benefit of any state, national or other political party caucus member.

2-10-116. Honorarium defined - Acceptance of honorarium by public official.

(a) The acceptance of an honorarium by a public official in such person's capacity as a public official is prohibited. "Honorarium" means a payment of money or any thing of value for an appearance, speech or article, but does not include actual and necessary travel expenses, meals and lodging associated with such appearance, speech or article.

(b) Acceptance of an honorarium for an appearance, speech or article by a public official in such person's capacity as a private business person, professional or tradesperson is not prohibited.

(c) As used in this section, "public official" means:

(1) Each person holding any state public office filled by the voters;

(2) Each person holding any local public office filled by the voters;

(3) Each member of the governor's cabinet; and

(4) Each cabinet level staff person employed within the governor's office.

2-10-117. Contributions from political action committees within ten days of election.

No multicandidate political campaign committee other than a committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall make a contribution to any candidate after the tenth day before an election until the day of the election.

2-10-118. Filing by responsible party with prior assessment record.

(a) It is unlawful for a responsible party of a multicandidate political campaign committee who has a prior assessment record to intentionally fail to file a required report under this chapter, for which the party is responsible for filing, within thirty-five (35) days after service of process or receipt of notice from the registry by registered or certified mail. For the purposes of this section, "responsible party" is the treasurer of the committee appointed pursuant to § 2-10-105(e), or if no treasurer has been appointed, any person who organizes or directs the fundraising activities of a multicandidate political campaign committee. A responsible party shall be considered to have a prior assessment record for purposes of this section if during the person's service as a responsible party to one (1) or more multicandidate political campaign committees, the committee or committees violate on two (2) or more occasions § 2-10-110 or § 2-10-308 and such violations result in the committee or committees being assessed a penalty by the registry.

(b) A violation of this section is a Class E felony.

2-10-119. Transfer of funds or assets from federal to state election campaign committee prohibited.

Transfers of funds or assets from a candidate's campaign committee or account for a federal election to a political campaign committee of or for such candidate for public office in this state is prohibited.

2-10-120. Authority of county election commission.

The county election commission has the authority to forward information regarding violation of disclosure laws by candidates for local public office to the district attorney general for investigation without the necessity of a sworn complaint from a registered voter as provided by § 2-10-108.

2-10-121. Registration fee for political campaign committees.

No later than January 31 of each year, each multicandidate political campaign committee registered with the registry of election finance shall pay a registration fee to be determined by rule promulgated pursuant to § 4-55-103(1). For any multicandidate political campaign committee registering a new committee during any year, the committee shall pay the appropriate registration fee at the time that it certifies its political treasurer. All fees collected under this section shall be retained and used for expenses related to maintaining an electronic filing system. This section shall not apply to any statewide political party as defined in § 2-1-104 or subsidiaries of the political party.

2-10-131. [Repealed.]

2-10-132. Independent expenditures.

Notwithstanding any other provision of law to the contrary, a corporation that uses corporate funds, moneys or credits for communications expressly advocating the election or defeat of a clearly identified candidate which funds, moneys or credits are not used with the cooperation or with the prior consent of, or in consultation with, or at the request of, or suggestion of, a candidate or any agent or authorized committee of the candidate shall be considered a political campaign committee for purposes of reporting such expenditures. The corporation shall be required to file reports required by § 2-10-105(c)(1) and an appointment of treasurer form.

PART 2
REGISTRY OF ELECTION FINANCE

2-10-201. Short title.

This part shall be known and may be cited as the “Registry of Election Finance Act of 1989.”

2-10-202. Legislative intent.

It is the intent of the general assembly to provide adequate financial disclosure by public officials, candidates for public office, and lobbyists. Furthermore, it is the intent of the general assembly to establish a registry of election finance to ensure enforcement of these statutes.

2-10-203. Registry of election finance - Creation - Appointments - Qualifications - Administration.

(a) There is hereby created as an independent entity of state government a Tennessee registry of election finance. The registry shall be composed of six (6) members appointed as provided herein. 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 and one (1) shall be black. However, a black female shall not satisfy the requirement of one (1) female and one (1) black. Each member shall have been a legal resident of this state for five (5) years immediately preceding selection. Members shall be at least thirty (30) years of age, registered voters in Tennessee, not announced candidates for public office, not members of a political party's state executive committee, shall not have been convicted of an election offense, and shall be persons of high ethical standards who have an active interest in promoting fair elections. Gubernatorial appointees shall be subject to confirmation by joint resolution of the general assembly. Such appointees shall have full power to serve until any vote of nonconfirmation.

(b) (1) For administrative purposes, the registry shall be attached to the department of state for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items. The autonomy of the registry and its authority are not affected by subsection (b) and the secretary of state shall have no administrative or supervisory control over the registry.

(2) No person performing staff duties for the registry of election finance, including the executive director, or any member of such person's immediate family as defined in § 3-6-301, shall, during the period of such employment:

- (A) Be allowed to hold or qualify for elective office to any state or local public office as defined in § 2-10-102;
 - (B) Be an officer of any political party or political committee;
 - (C) Permit such person's name to be used or make contributions in support of or in opposition to any candidate or proposition;
 - (D) Participate in any way in any election campaign;
 - (E) Lobby or employ a lobbyist; provided, that this provision on lobbying shall not prohibit the executive director from the performance of the executive director's duties; or
 - (F) 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.
- (c) Members of the registry shall be selected for staggered five-year terms as follows:
- (1) The governor shall appoint two (2) members. One (1) member shall be appointed from a list of three (3) nominees submitted by the state executive committee of the majority party. One (1) member shall be appointed from a list of three (3) nominees submitted by the state executive committee of the minority party. The governor's solicitations and the replies shall be public records. The governor shall give due consideration to such nominations. The governor may request a second list of nominees; provided, however, no nominees from the original list of nominees may appear on the second list of nominees.
 - (2) The senate shall appoint two (2) members, with one (1) member to be chosen by the members of the senate democratic caucus and one (1) member to be chosen by the members of the senate republican caucus; and
 - (3) The house of representatives shall appoint two (2) members, with one (1) member to be chosen by the members of the house of representatives democratic caucus and one (1) member to be chosen by the members of the house of representatives republican caucus.
- (d) Vacancies shall be filled in the same manner as the vacating member's office was originally filled.
- (e) The registry shall elect a chair from among its appointed 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 registry shall fix the place and time of its regular meetings by order duly recorded in its minutes. No action shall be taken without a quorum present. Special meetings shall be called by the chair on the chair's initiative or on the written request of four (4) members. Members shall receive seven (7) days' written notice of a special meeting, and the notice shall specify the purpose, time and place of the meeting, and no other matters may be considered, without a specific waiver by all the members.
- (g) The members of the registry shall receive no compensation; provided, that each member of the registry shall be eligible for reimbursement for 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 registry or such member's immediate family, as defined in § 3-6-301, shall, during registry 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 registry may seek votes for confirmation of the member's appointment to the registry; provided, that the member shall comply with the provisions of subsection (h).

(j) The provisions of 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 registry.

(k) (1) Every member of the registry of election finance 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 registry of election finance, 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 registry who violates the oath of office for that position or participates in any of the activities prohibited by this chapter commits a Class A misdemeanor. If a sworn allegation is made that a member has violated the oath of office for the member's position or has participated in any of the activities prohibited by this chapter, then upon a unanimous vote of the remaining members, the member against whom the sworn allegation is made may be suspended from the registry for such purposes and for such times as the remaining members shall unanimously determine, but no suspension shall extend beyond final disposition of the sworn allegation. The accused member shall not participate in the suspension vote. If a member of the registry is found guilty of or pleads guilty or nolo contendere to a violation of the oath of office for the member's position or participates in any of the activities prohibited by this chapter, then that member shall be deemed to be removed from office.

2-10-204. [Repealed.]

2-10-205. Jurisdiction to administer and enforce certain statutes.

The registry has the jurisdiction to administer and enforce the provisions of the following:

- (1) The Campaign Financial Disclosure Act, compiled in part 1 of this chapter; and
- (2) The Campaign Contribution Limits Act, compiled in part 3 of this chapter.

2-10-206. Registry of election finance - Duties.

(a) The duties of the registry include the following:

- (1) Develop prescribed forms for statements that are required to be filed under the laws pursuant to § 2-10-205, with the objective of making the disclosure statements as simple and understandable as possible for both the person filing the disclosure statement and the average citizen of the state of Tennessee;
- (2) Develop a filing, coding and cross-indexing system;
- (3) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same;
- (4) Review all filed statements to ensure compliance with the respective disclosure laws. Statements filed with the registry 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) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to reporting dates and the length of time that candidates and committees are required to keep any records pursuant to the provisions of this part;
- (6) Provide an annual report to the governor and the general assembly concerning the administration and enforcement of the disclosure law by January 15 of each year that includes recommendations by the registry or a statement that the registry makes no recommendations;
- (7) Investigate any alleged violation upon sworn complaint or upon its own motion. If the registry investigates the records of any selected candidate, it may also investigate the records of all other candidates running for the same office in the same district or other appropriate geographic area;
- (8) Preserve all reports or statements for five (5) years from the date of filing, absent any pending investigation by the registry of election finance or any other law enforcement agency, or absent any administrative or court proceeding;

(9) Notify all candidates for state public office in a state election of the requirements for filing any required disclosure statement fourteen (14) days before any fixed deadline provided for such filing; and

(10) Conduct audits.

(b) The registry shall notify each member of the general assembly by sending notice to the member's home address and the member's legislative office address in Nashville.

2-10-207. Registry of election finance - Powers.

The registry of election finance has the following powers:

(1) [Deleted by 2009 amendment.]

(2) Hold hearings, conduct audits, subpoena witnesses, administer oaths, and compel production of books, correspondence, papers and other records;

(3) Issue written advisory opinions concerning compliance with this chapter, which may be relied upon without threat of sanction with respect to the issue addressed by the opinion, if the candidate or committee conforms the candidate's or committee's conduct to the requirements of the advisory opinion. Such advisory opinions shall be posted on the web site of the registry of election finance;

(4) In determining whether an actual violation has occurred, conduct a contested case hearing;

(5) Issue an appropriate order following a determination;

(6) Assess a late filing fee of twenty-five dollars (\$25.00) per day up to a maximum total penalty of seven hundred fifty dollars (\$750);

(7) Assess a civil penalty for any violation of the disclosure laws as provided by this part. Civil penalties may be assessed for any violation of the Campaign Financial Disclosure Act, compiled in part 1 of this chapter, and the Campaign Contribution Limits Act, compiled in part 3 of this chapter; provided, that the registry shall only have the power to assess a civil penalty after notice and opportunity for hearing; and

(8) Where the results of its investigation indicate a criminal act may have occurred, the registry shall refer the matter to the appropriate district attorney general for criminal prosecution.

2-10-208. Applicability of part.

(a) All political accounts or funds subject to Tennessee law on January 1, 1990, shall become subject to the provisions of this part.

(b) For the purposes of enforcement, this part shall be prospective only, and the registry shall limit its investigations to acts or omissions which occur after January 1, 1990.

2-10-209. Enforcement - Chancery court petitions and orders.

The registry has the authority to petition the chancery court through the attorney general and reporter for enforcement of any order it has issued. The court's order of enforcement has the same force and effect as a civil judgment.

2-10-210. Authority to establish or levy penalty or sanction.

The registry of election finance shall not establish or levy any penalty or sanction for any action alleged to be a violation of the rules and regulations of the registry unless such action is also a violation of a statutory requirement.

2-10-211. Electronic filing system.

(a) The registry of election finance, notwithstanding any other provision of the law to the contrary, shall do all of the following:

(1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based electronic filing process for use by all candidates for state public office and all political campaign committees that are required to file statements and reports with the registry of election finance;

(2) Develop, with the advice, assistance and approval of the office of information resources, a system that provides each candidate and campaign committee with secure access to the electronic filing system. The system shall provide safeguards against efforts to tamper or change the data in any way;

(3) Provide training to candidates and campaign committees on the use of the electronic filing system;

(4) Develop, with the advice, assistance and approval of the office of information resources, a system that will forward a copy of any candidate's report that is filed electronically with the registry of election finance to the appropriate local county election commission; and

(5) Provide public access to a list of campaign contributions made to candidates and a list of expenditures made by those candidates by posting the lists on the Internet. In addition, the registry shall provide assistance to anyone seeking to access this information on the Internet. Beginning with the 2006 regular August election, campaign contribution lists shall be made available on the Internet after a candidate has filed the information and the registry has reviewed the statements for accuracy and timeliness. If a candidate has not timely filed campaign contribution lists, then the registry shall post on the Internet that the candidate's statement is delinquent.

(b) The registry of election finance, 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 registry of election finance shall, with the advice, assistance and approval of the office of information resources, implement the electronic filing system for use in the 2006 regular August election and all subsequent state elections. Candidates for state public offices and campaign committees may commence electronic filing for any state election beginning in the year 2006 and after notice has been given pursuant to subsection (b), and may continue to file electronically all reports for any subsequent state elections. Beginning in July 2006, candidates for state public offices and campaign committees, who have contributions or expenditures in excess of one thousand dollars (\$1,000) per reporting period, shall file electronically all reports for any subsequent state elections. Failure to timely file reports electronically may be penalized as provided in § 2-10-110.

(d) All information entered by any candidate or campaign committee into the electronic filing system shall remain confidential until the information is filed with the registry of election finance.

2-10-212. Audits and investigations of reports and statements.

(a) The registry of election finance shall conduct audits and field investigations of reports and statements filed with the registry as follows:

(1) Each gubernatorial candidate and that candidate's committees that receive at least ten percent (10%) of the vote at the general election shall be audited;

(2) Each candidate for the general assembly and such candidate's committees shall be subject to an audit by the registry on a random selection of districts in an election. Districts shall be randomly drawn until a total of approximately four percent (4%) of all candidates for the general assembly have been selected. Notwithstanding any law to the contrary, for any audit conducted by the registry under this subdivision (a)(2), the registry shall only conduct the audit for the immediately preceding election cycle and shall not require the production or disclosure of, or consider for purposes of the audit, any information or documents relating to any other election cycle; and

(3) Each candidate for supreme court, court of appeals and criminal court of appeals shall be subject to an audit by the registry on a random selection. One (1) candidate from each of the supreme court, court of appeals and criminal court of appeals shall be randomly selected by the registry to be audited each election cycle.

(b) (1) (A) The registry shall select by lot the districts to be audited on a random basis regarding candidates for the general assembly. For judicial offices, the registry shall select by lot the names of candidates to be audited on a random basis.

(B) The selection shall be after the last date for filing the first report or statement following the general election for which the candidate ran or for which the committee donated money. The attorney general and reporter, or the attorney general's designee, shall attend the random selection to preserve the integrity of the proceeding.

(2) No audit or investigation of any candidate or candidate's committee in connection with a report or statement required by this chapter shall begin until after the last date for filing the first report or statement following the general election for the office for which the candidate ran. When the campaign statements or reports of a candidate are audited and investigated, the audit and investigation shall cover all campaign statements and reports filed for the primary and general elections and any previous campaign statement or report filed since the last election for that office, but shall exclude any statements or reports that have previously been audited.

(3) Audits of members of the general assembly shall only take place during June through December during odd-numbered years.

(c) In order to comply with an audit, candidates and campaigns shall retain copies of all checks, bank statements and vendor receipts for two (2) years after the date of the election to which the records refer.

(d) (1) The registry shall adopt auditing guidelines and standards with guidance from the comptroller of the treasury, which shall govern audits and field investigations conducted under this section. The guidelines and standards shall be formulated to accomplish the following purposes:

(A) The audits should encourage compliance and detect violations of this chapter;

(B) The audits should be conducted with maximum efficiency in a cost-effective manner; and

(C) The audits should be as unobtrusive as possible, consistent with the purposes provided in this subdivision (d)(1).

(2) In adopting its guidelines and standards, the registry shall consider relevant guidelines and standards of the American Institute of Certified Public Accountants to the extent such guidelines and standards are applicable and consistent with the purposes set forth in this section.

(e) The detailed information received pursuant to this section for an audit shall be considered working papers of the registry of election finance and is, therefore, confidential and not an open record pursuant to title 10, chapter 7.

(f) After the completion and approval of an audit by the registry, the registry shall post any finding that could result in an assessment of significant penalties on the registry's web site, except that audits of candidates defeated in the primary election shall not be made public until after the general election.

(g) Failure to comply with an audit investigation under this section is a Class 2 offense as defined in § 2-10-110.

(h) Notwithstanding the provisions of this section, any candidate running for the office of governor more than one (1) year prior to the general election may elect to do self-audits. Such audits shall be given to the registry and the registry may give the candidate a letter of compliance stating the audit is complete and acceptable.

(i) Notwithstanding the provisions of this section, if any candidate files a contribution statement with more than thirty percent (30%) of the candidate's contributions reported as unitemized contributions and such contributions total more than five thousand dollars (\$5,000), then the candidate's contributions shall automatically be audited by the registry.

2-10-213. Power and authority of registry in conducting audits and hearings - Subpoenas - Contempt.

(a) (1) For the purpose of conducting any hearing or audit as provided in this chapter, the registry has the power to administer oaths, to call any party to testify under oath at the hearings, to require the attendance of witnesses, the production of books, records, and papers, and to take the depositions of witnesses.

(2) For purposes of subdivision (a)(1), the registry is authorized to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers. These subpoenas may be served by registered mail, return receipt requested, to the addressee's business mailing address, or by personnel of the registry, or shall be directed for service to the sheriff of the county where the witness resides or is found, or where the person in custody of any books, records, or papers resides or is found.

(b) In case of a refusal to obey a subpoena issued to any person under subsection (a), any circuit or chancery court of this state within the jurisdiction in which the person refusing to obey the subpoena is found or resides may issue to the person, upon application by the registry, an order requiring the person to appear before the court to show cause why the person should not be held in contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished by the court as a contempt of court.

2-10-214. Required training program for members of registry.

(a) A person who is appointed to the registry of election finance may not vote, deliberate, or be counted as a member in attendance at a meeting of the registry 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 registry.

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

(1) The legislation that created the registry;

- (2) The role and function of the registry;
 - (3) The rules of the registry, with an emphasis on the rules that relate to disciplinary and investigatory authority;
 - (4) The current budget for the registry;
 - (5) The results of the most recent formal audit of the registry;
 - (6) The requirements of the campaign finance laws administrated and enforced by the registry; and
 - (7) Any applicable policies adopted by the registry.
- (c) A person appointed to the registry is entitled to reimbursement for expenses incurred in attending the training program.
 - (d) This section shall apply prospectively to members appointed to the registry after February 15, 2006.

PART 3
CAMPAIGN CONTRUBTIONS LIMITS

2-10-301. Short title - Jurisdiction.

- (a) This part shall be known and may be cited as the “Campaign Contribution Limits Act of 1995.”
- (b) The registry of election finance has jurisdiction to administer and enforce the provisions of this part.

2-10-302. Contribution limits.

- (a) No person shall make contributions to any candidate with respect to any election which, in the aggregate, exceed:
 - (1) For an office elected by statewide election, two thousand five hundred dollars (\$2,500); or
 - (2) For any other state or local public office, one thousand dollars (\$1,000).
- (b) No multicandidate political campaign committee shall make contributions to any candidate with respect to any election which, in the aggregate, exceed:
 - (1) For an office elected by statewide election or the senate, seven thousand five hundred dollars (\$7,500); and
 - (2) For any other state or local public office, five thousand dollars (\$5,000).
- (c) With respect to contributions from multicandidate political campaign committees for each election:
 - (1) No candidate for an office elected by statewide election shall accept in the aggregate more than fifty percent (50%) of the candidate's total contributions from multicandidate political campaign committees; and
 - (2) No candidate for any other state or local public office shall accept in the aggregate more than seventy-five thousand dollars (\$75,000) from multicandidate political campaign committees.

In determining the aggregate limits established by this subsection (c), contributions made to a candidate by a committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly are not included.

- (d) (1) Each contribution limit established in subsection (a), (b) or (c) shall be adjusted 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, for the period of January 1, 1996, through December 31, 2010. Each such adjustment shall be rounded to the nearest multiple of one hundred dollars (\$100). The registry of election finance shall publish each such adjusted amount on its web site.
- (2) On January 1, 2013, and every two (2) years thereafter, each contribution limit established in subsection (a), (b) or (c), as adjusted pursuant to subdivision (d) (1), shall be further adjusted 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, for the two-year period immediately

preceding. Each such adjustment under this subdivision (d) (2) shall be rounded to the nearest multiple of one hundred dollars (\$100). The registry of election finance shall publish each such adjusted amount on its web site.

2-10-303. Indirect contributions - Political action committees.

For purposes of the limitations contained in this part:

- (1) Contributions made to any political campaign committee authorized by a candidate to accept contributions on the candidate's behalf shall be considered to be contributions made to such candidate;
- (2) Contributions made by a political campaign committee authorized by a candidate to make expenditures on the candidate's behalf shall be considered contributions made by such candidate;
- (3) All contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the registry of election finance and to the intended recipient;
- (4) All contributions made by affiliated political campaign committees shall be considered to have been made by a single committee; and
- (5) Expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, the candidate's political campaign committees, or their agents, shall be considered to be a contribution to such candidate. For purposes of this subdivision (5), the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's political campaign committees, or their authorized agents shall be considered to be an expenditure.

2-10-304. Loans.

(a) The limitations contained in this part do not apply to any loan of money by a financial institution as defined in § 45-10-102(3) that:

- (1) Is made in accordance with applicable law and in the ordinary course of business;
 - (2) Is made on a basis reasonably designed to assure repayment, evidenced by a written instrument, and subject to a payment due date or amortization schedule; and
 - (3) Bears the usual and customary interest rate of the lending institution.
- (b) An endorsement or guaranty of a loan made pursuant to subsection (a) shall be considered a contribution in the amount of the endorsement or guaranty and shall be subject to the limitations contained in this part. Where the written instrument does not specify the portion of the loan for which the endorser or guarantor is liable, each endorser or guarantor shall be considered to have made a contribution in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

2-10-305. Retention or transfer of funds.

The limits contained in this part do not apply to:

- (1) The retention of funds by a candidate pursuant to § 2-10-114(a)(1);
- (2) The transfer of funds by a candidate pursuant to § 2-10-114(a)(1) to a campaign fund of the same candidate for election to a different state or local public office; or
- (3) The transfer of funds by a candidate for election to a federal office to a campaign fund of the same candidate for election to a state or local public office.

2-10-306. Aggregate limits - Exemptions.

- (a) All contributions made by political campaign committees controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall be considered to have been made by a single committee. Such contributions shall not, in the aggregate, exceed:
- (1) Two hundred fifty thousand dollars (\$250,000) per election to any candidate in a statewide election;

- (2) Forty thousand dollars (\$40,000) per election to any candidate for the senate; and
 - (3) Twenty thousand dollars (\$20,000) per election to any candidate for any other state or local public office.
- (b) For purposes of this section, “contributions” does not include:

(1) Payment of the costs of preparation, display or mailing or other distribution with respect to printed slate cards, sample ballots, or other printed listings of three (3) or more candidates who are opposed for election. This exemption does not apply to costs incurred with respect to the preparation and display of listings made on broadcasting stations or in newspapers, magazines and similar types of general public political advertising such as billboards;

(2) Payment of the costs of voter registration and get-out-the-vote activities conducted by party committees, unless the payments are made on behalf of a clearly identified candidate and the payment can be directly attributed to that candidate;

(3) Expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of party committees, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate; or

(4) Expenditures for education campaign seminars and for training of campaign workers, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

(c) (1) Each contribution limit established in subsection (a) shall be adjusted 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, for the period of January 1, 1996, through December 31, 2010. Each such adjustment shall be rounded to the nearest multiple of one hundred dollars (\$100). The registry of election finance shall publish each such adjusted amount on its web site.

(2) On January 1, 2013, and every two (2) years thereafter, each contribution limit established in subsection (a), as adjusted pursuant to subdivision (c) (1), shall be further adjusted 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, for the two-year period immediately preceding. Each such adjustment under this subdivision (C) (1) shall be rounded to the nearest multiple of one hundred dollars (\$100). The registry of election finance shall publish each such adjusted amount on its web site.

2-10-307. Violations - Return of unlawful contributions.

(a) No candidate or political campaign committee shall accept any contribution or make any expenditure in violation of the provisions of this part. No officer or employee of a political campaign committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(b) In keeping with the federal law, a contribution made or accepted in excess of the limitations established by this part shall not be a violation of this part if the candidate or the political campaign committee returns or refunds the contribution to the person who made the contribution within sixty (60) days of the candidate's or committee's receipt of the contribution.

2-10-308. Penalties.

(a) The registry of election finance may impose a maximum civil penalty for a violation of this part of not more than ten thousand dollars (\$10,000) or one hundred fifteen percent (115%) of the amount of all contributions made or accepted in excess of the limitations established by this part, whichever is greater.

(b) Penalties imposed under this part shall be deposited into the state general fund.

(c) To request a waiver or reduction or in any way to contest a penalty imposed by the staff of the registry, a person shall file a petition with the registry. Such petition shall be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(d) If a civil penalty lawfully assessed against a candidate is not paid within thirty (30) days after the assessment becomes final, the candidate shall be ineligible to qualify for election to any state or local public office until such penalty is paid.

2-10-309. Construction with federal law.

In determining issues arising in regard to this part, the registry may rely on the precedents established under the federal law.

2-10-310. Fund raising during general assembly session.

(a) (1) Except as provided in subdivisions (a)(2) and (a)(3), from the convening of the general assembly in organizational session through the earlier of the last day of regular session or June 1 in odd years, and from the convening of the general assembly in regular session to the earlier of May 15 or the conclusion of the annual session in even years, and from the convening of the general assembly in any extraordinary session through the conclusion of such extraordinary session, no member of the general assembly or a member's campaign committee or the governor or the governor's campaign committee shall conduct a fundraiser or solicit or accept contributions for the benefit of the caucus, any caucus member or member or candidate of the general assembly or governor.

(2) During such period, a member of the general assembly who is a candidate for a local public office shall be permitted to conduct fundraising events and solicit or accept contributions for such campaign for local public office only under the following conditions:

(A) Such fundraising events may be held only in the county in which such member is a candidate for local public office;

(B) Solicitations and acceptance of contributions for such purposes may only be made from individuals residing in such county;

(C) Such fundraising events shall not be held, nor contributions be solicited nor accepted, on state property;

(D) The member shall not be permitted to solicit or accept, directly or indirectly, any actual or in-kind contribution during such period from a lobbyist or employer of a lobbyist; and

(E) No other member of the general assembly or the campaign committee of such other member shall be permitted to solicit or accept contributions during such period for the member campaigning for local public office.

It shall be unlawful for any lobbyist or employer of a lobbyist to make any contribution to such member's campaign committee during such period for any purpose.

(3) All contributions raised as a result of fundraising or a fundraising event authorized and held in accordance with subdivision (a)(2) shall be reported on a form prescribed and provided by the registry of election finance for such purposes. Such form shall be filed with and attached to the applicable campaign finance disclosure report. The following disclosures shall be made on such form:

(A) The amount of contributions collected as a result of such fundraising event;

(B) The date and place such fundraising event was held;

(C) The dates on which such contributions were accepted; and

(D) All other information required by law to be reported on a campaign financial disclosure report.

(b) From the convening of the general assembly in organizational session through the earlier of the last day of regular session or June 1 in odd years, and from the convening of the general assembly in regular session to the earlier of May 15 or the conclusion of the annual session in even years, and from the convening of the general assembly in any extraordinary session through the conclusion of such extraordinary session, a political campaign committee controlled by a political party on the national, state, or local level, or controlled by a caucus of such political party established by members of either house of the general assembly, or established or controlled by any member of the general assembly, that makes contributions to a candidate for the general assembly or governor for election or to defray the expenses of such person's office shall not conduct a fundraiser, solicit or accept contributions for the benefit of the caucus, any caucus member or candidate for the general assembly or governor.

(c) Excess funds for election to a local public office are not eligible for transfer under § 2-10-114 to a campaign account for election to the general assembly or governor.

2-10-311. Limitations on cash contributions.

(a) No person shall make cash contributions to any candidate with respect to any election that, in the aggregate, exceed fifty dollars (\$50.00).

(b) No person shall make cash contributions to any political campaign committee or multicandidate political campaign committee with respect to any election that, in the aggregate, exceed fifty dollars (\$50.00).

(c) No political campaign committee or multicandidate political campaign committee shall make cash contributions to any candidate with respect to any election.

(d) No political campaign committee or multicandidate political campaign committee shall make cash contributions to any other political campaign committee or multicandidate political campaign committee with respect to any election.

2-10-312. [Repealed.]

PART 4
GUBERNATORIAL INAUGURATION FINANCE DISCLOSURE

2-10-401. Short title.

This part shall be known and may be cited as the “Gubernatorial Inauguration Finance Disclosure Act.”

2-10-402. Part definitions.

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

(1) “Contribution” means any advance, conveyance, deposit, distribution, transfer of funds, loan, loan guaranty, payment, gift, or subscription, of money or like thing of value, and any contract, agreement, promise or other obligation, whether or not legally enforceable, made for the purpose of defraying any expenses of a governor or governor-elect's inauguration or the celebration of a governor or governor-elect's inauguration;

(2) “Multicandidate political campaign committee” means a political campaign committee to support or oppose two (2) or more candidates for public office or two (2) or more measures; and

(3) “Person” means an individual, limited liability company, partnership, limited liability partnership, committee, association, labor organization or any other organization or group of persons, but does not mean a corporation or the executive officers or other representatives of a corporation.

2-10-403. Expense fund.

Not later than thirty (30) days after being elected to the office of governor, the governor-elect shall establish a gubernatorial inauguration expense fund that shall be used to finance any event held for the purpose of celebrating the governor's inauguration. Such fund is subject to the contribution limits and reporting requirements provided in this part. The provisions of parts 1 and 3 of this chapter shall not apply to contributions made pursuant to this part.

2-10-404. Contribution limits - Transfer of campaign funds.

(a) No person shall make contributions for the gubernatorial inauguration that, in the aggregate, exceed two thousand five hundred dollars (\$2,500).

(b) No multicandidate political campaign committee shall make contributions for the gubernatorial inauguration that, in the aggregate, exceed seven thousand five hundred dollars (\$7,500).

(c) No corporation or executive officers or other representatives of any corporation doing business within this state shall make contributions for the gubernatorial inauguration that, in the aggregate, exceed seven thousand five hundred dollars (\$7,500).

(d) The governor-elect may transfer funds from the governor-elect's campaign fund to the inauguration fund.

2-10-405. Financial disclosure statement.

(a) The governor-elect shall file with the registry of election finance a statement of all contributions received and all expenditures made by or on behalf of the gubernatorial inauguration fund.

(b) A statement filed under this section shall consist of either:

(1) A statement that neither the contributions received nor the expenditures made during the period for which the statement is submitted exceeded one thousand dollars (\$1,000); or

(2) A statement setting forth:

(A) Under contributions, a list of all the contributions received, as follows:

(i) The statement shall list the full name and complete address of each person, multicandidate political campaign committee, or corporation contributing a total amount of more than five hundred dollars (\$500) during the period for which the statement is submitted, and the amount contributed by that person, multicandidate political campaign committee, or corporation. The statement shall include the date of the receipt of each contribution; and

(ii) The statement shall list as a single item the total amount of contributions of five hundred dollars (\$500) or less; and

(B) Under expenditures, a list of all expenditures made as follows:

(i) The statement shall list the full name and address of each person to whom a total amount of more than five hundred dollars (\$500) was paid during the period for which the statement is submitted, the total amount paid to that person, and the purpose thereof; and

(ii) The statement shall list the total amount of expenditures of five hundred dollars (\$500) or less each, by category, without showing the exact amount of or vouching for each such expenditure.

(c) The financial disclosure statement for contributions made up until thirty (30) days before any inauguration event shall be filed no later than ten (10) days before the governor's inauguration. The financial disclosure statement for all other contributions shall be filed no later than thirty (30) days after the governor's inauguration.

2-10-406. Unused funds.

(a) The governor may hold over funds from the governor's first inauguration to be used in a second inauguration if the governor is re-elected. If the governor is either in a second term, chooses not to run for re-election or is not re-elected, the governor has ninety (90) days to donate any funds remaining in the gubernatorial inauguration fund to a 501(c)(3) nonprofit organization. The governor may request from the registry of election finance an extension of an additional sixty (60) days to donate such remaining funds.

(b) Once the funds have been donated as provided in subsection (a), a financial disclosure statement shall be filed with the registry of election finance disclosing who received such funds and the amount of such donation.