STATE OF TENNESSEE

# EXECUTIVE ORDER

BY THE GOVERNOR

No. 3

AN ORDER CONCERNING ETHICS, CONFLICTS OF INTEREST, AND ACCEPTANCE OF GIFTS ON THE PART OF EXECUTIVE BRANCH EMPLOYEES

WHEREAS, the maintenance of high standards of honesty, integrity, impartiality, and conduct by employees and agents of the State of Tennessee is essential to ensure the proper performance of government business and the maintenance of confidence by citizens in their government; and

WHEREAS, the avoidance of misconduct and conflicts of interest on the part of employees of the State of Tennessee is indispensable to the maintenance of these standards;

NOW THEREFORE, I, Phil Bredesen, Governor of the State of Tennessee, by virtue of the power and authority vested in me by the Tennessee Constitution and the laws of Tennessee, do hereby direct and order that:

1. Persons covered. This Order applies to the following employees of the Executive Branch of the State of Tennessee: the Governor, members of the Governor's staff, members of the Governor's cabinet, and all other executive service employees.

2. Employee responsibilities. Each employee shall avoid any action, whether or not specifically prohibited by statute, regulation, or this Order, which might result in or create the appearance of:

i. Using public office for private gain;

ii. Giving preferential treatment to any person;

iii. Impeding government efficiency or economy;

iv. Losing complete independence or impartiality;

v. Making a government decision outside of official channels; or

vi. Affecting adversely the confidence of the public in the integrity of the government.

3. Gifts. No employee shall solicit or accept, directly or indirectly, on behalf of himself or herself or any member of the employee's household, any gift, including but not limited to any gratuity, service, favor, food, entertainment, lodging, transportation, loan, loan guarantee or any other thing of monetary value, from any person or entity that:

i. Has, or is seeking to obtain, contractual or other business or financial relations with the department or agency of the State of Tennessee in which the individual is employed; or

ii. Conducts operations or activities that are regulated by the department or agency of the State of Tennessee in which the employee is employed; or

iii. Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.

4. Exceptions. The prohibition on accepting gifts in paragraph 3 does not apply to:

i. A gift given by a member of the employee's immediate family, or by an individual if the gift is given for a nonbusiness purpose and is motivated by a close personal friendship and not by the position of the employee. In determining whether a gift falls within this subsection, the factors contained in Tenn. Code Ann. Section 3-6-114(b)(3)(A) and (B) shall apply.

ii. Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;

iii. Sample merchandise, promotional items, and appreciation tokens, if they are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;

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

v. Food, refreshments, foodstuffs, entertainment, or beverages provided as part of a meal or other event, if the value of such items does not exceed fifty dollars ($50.00) per occasion; provided further, that the value of a gift made pursuant to this subsection may not be reduced below the monetary limit by dividing the cost of the gift among two or more persons or entities identified in paragraph 3;

vi. There may be circumstances where refusal or reimbursement of a gift (such as a lunch or dinner) may be awkward and contrary to the larger interests of the State. In such circumstances, the employee is to use his or her best judgment, and disclose the gift, including a description, estimated value, the person or entity providing the gift, and any explanation necessary within fourteen (14) days to the Commissioner of Finance and Administration, who will provide a form for that purpose;

vii. Food, refreshments, meals, foodstuffs, entertainment, beverages or intrastate travel expenses that are provided in connection with an event where the employee is a speaker or part of a panel discussion at a scheduled meeting of an established or recognized membership organization which has regular meetings; and

viii. Loans from established financial institutions made in the ordinary course of business on usual and customary terms, so long as there are no guarantees or collateral provided by any person described in paragraph 3.

5. Financial Interests.

i. No employee shall enter into or derive any benefit, directly or indirectly, from any contractual arrangement with the State or any of its agencies. In recognition of the fact that many husbands and wives have separate careers, the normal employment compensation of a spouse whose regular, ongoing employer or business has a contractual arrangement with the State shall not be considered a "benefit" to the employee, provided the contract with the State was procured without any participation, assistance or influence by the employee.

ii. No employee shall have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his or her government duties or responsibilities. "Indirect financial interest" in this case includes a substantial interest on the part of a parent, spouse, or minor child of the employee. This subsection shall not apply to interests that have been placed into a "blind trust" arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests. This subsection also shall not apply to ownership of publicly traded stocks or bonds where such ownership constitutes less than two percent (2%) of the total outstanding amount of the stocks or bonds of the issuing entity. If, at the time the employee begins employment with the State or at any subsequent time during State employment, the employee possesses such direct or indirect financial interests prohibited by subsections (i) or (ii), the employee shall divest such interest within a reasonable time.

6. Use of information. No employee shall, directly or indirectly:

i. Use, disclose, or allow the use of official information which was obtained through or in connection with his or her government employment and which has not been made available to the general public for the purpose of furthering the private interest or personal profit of any person, including the employee; or

ii. Engage in a financial transaction as a result of, or primarily relying upon, information obtained through his or her government employment.

7. Use of government property. No employee shall make use of the facilities, equipment, personnel, or supplies of the State or its agencies for private use or gain, except to the extent that the use is incidental or de minimus or is lawfully available to the general public.

8. Departmental ethics standards. Any department of the State of Tennessee may establish such additional ethics guidelines and standards as may be lawfully applied and may in the opinion of the head of the department be appropriate for proper operation. Such additional standards should be filed with the Commissioner of Finance and Administration and any other person required by law as soon as practicable after adoption. This Order does not supersede or revoke those portions of any existing departmental policies regarding ethical standards which are stricter than, or cover areas additional to, the standards set out herein. This Order does not supercede or revoke any standards of conduct imposed by statute.

9. Compliance Officer. The head of each department is directed to designate a Compliance Officer within that department who shall have the duty of supervising compliance with this Order within that department. The Compliance Officer shall refer material violations of this Order and Executive Order 2 to the Ethics Committee created pursuant to Executive Order 1. The Compliance Officer shall inform each employee

within his or her department of the requirements of this Order and shall distribute the Order to each employee. The Compliance Officer shall obtain from each employee a signed statement, using a form prepared by the Commissioner of Finance and Administration, that the employee has received a copy of this Order, has read it, and agrees to abide by its terms as a condition of employment.

10. Annual Certification. On or before January 31 of each year, the head of each department shall submit a written statement to the Governor, in a form prepared by the Commissioner of Finance and Administration, stating that all material violations of this Order known to the head or to the Compliance Officer have been reported to the Ethics Committee. A copy of the written statement also shall be filed with the Department of Finance and Administration, where it will be available for inspection by the public during normal working hours.

11. Questions on interpretation of this order. When an employee is in doubt as to the proper interpretation of this order, he or she is expected to seek the advice of the Commissioner or Compliance Officer of his department or agency.

12. Career Service Employees. The Commissioner of Personnel is directed to promulgate any rules or regulations necessary to extend the requirements of this Order to career service employees of the Executive Branch.

13. This Executive Order is intended only to improve the internal management of the Executive Branch of the State of Tennessee and does not create any right to administrative or judicial review, or any other right or benefit, substantive or procedural, enforceable at law or equity by a party against the State of Tennessee, its agencies or instrumentalities, its officers or employees, or any other person.

14. Executive Orders 1, 2 and 3 supercede and repeal all other Executive Orders and implementing directives and memoranda concerning ethics policies applicable to the Executive Branch.

IN WITNESS WHEREOF, I have subscribed my signature and caused the Great Seal of the State of Tennessee to be affixed this 3rd day of February, 2003.

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GOVERNOR

ATTEST:

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SECRETARY OF STATE