

1 HB524  
2 158698-1  
3 By Representatives Davis, Givan, Moore (B), Beckman, Lindsey  
4 and Wood  
5 RFD: Ethics and Campaign Finance  
6 First Read: 20-FEB-14

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8 SYNOPSIS: Existing law governs campaign contributions  
9 and expenditures.

10 This bill would clarify that, for purposes  
11 of reporting, a campaign contribution is received  
12 on the first date the recipient of the contribution  
13 is able to make use of the contribution.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 Relating to elections; to amend Section 17-5-2, Code  
20 of Alabama 1975, to clarify that, for purposes of reporting, a  
21 campaign contribution is received on the first date the  
22 recipient of the contribution is able to make use of the  
23 contribution.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 17-5-2, Code of Alabama 1975, is  
26 amended to read as follows:

27 "§17-5-2.

1           "(a) For purposes of this chapter, the following  
2 terms shall have the following meanings:

3           "(1) CANDIDATE. An individual who has done any of  
4 the following:

5           "a. Taken the action necessary under the laws of the  
6 state to qualify himself or herself for nomination or for  
7 election to any state office or local office or in the case of  
8 an independent seeking ballot access, on the date when he or  
9 she files a petition with the judge of probate in the case of  
10 county offices, with the appropriate qualifying municipal  
11 official in the case of municipal offices, or the Secretary of  
12 State in all other cases.

13           "b. Received contributions or made expenditures in  
14 excess of one thousand dollars (\$1,000), or given his or her  
15 consent for any other person or persons to receive  
16 contributions or make expenditures in excess of one thousand  
17 dollars (\$1,000), with a view to bringing about his or her  
18 nomination or election to any state office or local office.

19           "(2) CONTRIBUTION.

20           "a. Any of the following shall be considered a  
21 contribution:

22           "1. A gift, subscription, loan, advance, deposit of  
23 money or anything of value, a payment, a forgiveness of a  
24 loan, or payment of a third party, made for the purpose of  
25 influencing the result of an election.

26           "2. A contract or agreement to make a gift,  
27 subscription, loan, advance, or deposit of money or anything

1 of value for the purpose of influencing the result of an  
2 election.

3 "3. Any transfer of anything of value received by a  
4 political committee from another political committee,  
5 political party, or other source.

6 "4. The payment of compensation by any person for  
7 the personal services or expenses of any other person if the  
8 services are rendered or expenses incurred on behalf of a  
9 candidate, political committee, or political party without  
10 payment of full and adequate compensation by the candidate,  
11 political committee, or political party. Provided, however,  
12 that the payment of compensation by a corporation for the  
13 purpose of establishing, administering, or soliciting  
14 voluntary contributions to a separate, segregated fund as  
15 permitted in this chapter, shall not constitute a  
16 contribution.

17 "b. The term "contribution" does not include:

18 "1. The value of services provided without  
19 compensation by individuals who volunteer a portion or all of  
20 their time on behalf of a candidate or political committee.

21 "2. The use of real or personal property and the  
22 cost of invitations, food, or beverages, voluntarily provided  
23 by an individual to a candidate or political committee in  
24 rendering voluntary personal services on the individual's  
25 residential or business premises for election-related  
26 activities.

1           "3. The sale of any food or beverage by a vendor for  
2 use in an election campaign at a charge to a candidate or  
3 political committee less than the normal comparable charge, if  
4 the charge to the political committee for use in an election  
5 campaign is at least equal to the cost of the food or beverage  
6 to the vendor.

7           "4. Any unreimbursed payment for travel expenses  
8 made by an individual who, on his or her own behalf,  
9 volunteers personal services to a candidate or political  
10 committee.

11           "5. The payment by a state or local committee of a  
12 political party of the cost of preparation, display, or  
13 mailing or other distribution incurred by the committee with  
14 respect to a printed slate card or sample ballot, or other  
15 printed listing of two or more candidates for any public  
16 office for which an election is held in the state, except that  
17 this subparagraph shall not apply in the case of costs  
18 incurred by the committee with respect to a display of the  
19 listing made on broadcasting stations, or in newspapers,  
20 magazines, or other similar types of general public political  
21 advertising.

22           "6. The value or cost of polling data and voter  
23 preference data and information if provided to a candidate or  
24 political committee, unless the information was compiled with  
25 the advance knowledge of and approval of the candidate or the  
26 political committee.

1           "c. For purposes of reporting contributions as  
2           required by this chapter, the date of receipt of a  
3           contribution shall be the first date the recipient of the  
4           contribution is able to make use of the contribution. In the  
5           case of a contribution in the form of a check, the date of  
6           deposit of the check in the recipient's account is the date  
7           the contribution is received.

8           "(3) DESIGNATED FILING AGENT. An individual  
9           appointed and authorized as attorney in fact to electronically  
10          submit any report or other filing required by this chapter on  
11          behalf of a candidate, his or her principal campaign  
12          committee, or a political action committee.

13          "(4) ELECTION. Unless otherwise specified, any  
14          general, special, primary, or runoff election, or any  
15          convention or caucus of a political party held to nominate a  
16          candidate, or any election at which a constitutional amendment  
17          or other proposition is submitted to the popular vote.

18          "(5) ELECTIONEERING COMMUNICATION. Any communication  
19          disseminated through any federally regulated broadcast media,  
20          any mailing, or other distribution, electronic communication,  
21          phone bank, or publication which (i) contains the name or  
22          image of a candidate; (ii) is made within 120 days of an  
23          election in which the candidate will appear on the ballot;  
24          (iii) the only reasonable conclusion to be drawn from the  
25          presentation and content of the communication is that it is  
26          intended to influence the outcome of an election; and (iv)

1 entails an expenditure in excess of one thousand dollars  
2 (\$1,000).

3 "(6) EXPENDITURE.

4 "a. The following shall be considered expenditures:

5 "1. A purchase, payment, distribution, loan,  
6 advance, deposit, or gift of money or anything of value made  
7 for the purpose of influencing the result of an election.

8 "2. A contract or agreement to make any purchase,  
9 payment, distribution, loan, advance, deposit, or gift of  
10 money or anything of value, for the purpose of influencing the  
11 result of an election.

12 "3. The transfer, gift, or contribution of funds of  
13 a political committee to another political committee.

14 "b. The term "expenditure" does not include:

15 "1. Any news story, commentary, or editorial  
16 prepared by and distributed through the facilities of any  
17 broadcasting station, newspaper, magazine, or other periodical  
18 publication, unless the facilities are owned or controlled by  
19 any political party or political committee.

20 "2. Nonpartisan activity designed to encourage  
21 individuals to register to vote, or to vote.

22 "3. Any communication by any membership organization  
23 to its members or by a corporation to its stockholders and  
24 employees if the membership organization or corporation is not  
25 organized primarily for the purpose of influencing the result  
26 of an election.

1           "4. The use of real or personal property and the  
2 cost of invitations, food, or beverages, voluntarily provided  
3 by an individual in rendering voluntary personal services on  
4 the individual's residential or business premises for  
5 election-related activities.

6           "5. Any unreimbursed payment for travel expenses  
7 made by an individual who, on his or her own behalf,  
8 volunteers personal services to a candidate or political  
9 committee.

10          "6. Any communication by any person which is not  
11 made for the purposes of influencing the result of an  
12 election.

13          "7. The payment by a state or local committee of a  
14 political party of the cost of preparation, display, or  
15 mailing or other distribution incurred by the committee with  
16 respect to a printed slate card or sample ballot, or other  
17 printed listing of two or more candidates for any public  
18 office for which an election is held in the state, except that  
19 this subparagraph shall not apply in the case of costs  
20 incurred by the committee with respect to a display of the  
21 listing made on broadcasting stations, or in newspapers,  
22 magazines, or other similar types of general public political  
23 advertising.

24          "(7) IDENTIFICATION. The full name and complete  
25 address.

1           "(8) LOAN. A transfer of money, property, or  
2 anything of value in consideration of a promise or obligation,  
3 conditional or not, to repay in whole or part.

4           "(9) LOCAL OFFICE. Any office under the constitution  
5 and laws of the state, except circuit, district, or  
6 legislative offices, filled by election of the registered  
7 voters of a single county or municipality, or by the voters of  
8 a division contained within a county or municipality.

9           "(10) PERSON. An individual, partnership, committee,  
10 association, corporation, labor organization, or any other  
11 organization or group of persons.

12           "(11) PERSONAL AND LEGISLATIVE LIVING EXPENSES.  
13 Household supplies, personal clothing, tuition payments,  
14 mortgage, rent, or utility payments for a personal residence;  
15 admission to an entertainment event or fees for a country club  
16 or social club, unless tied to a specific campaign event or  
17 functions involving constituents; and any other expense,  
18 excluding food and beverages, that would exist irrespective of  
19 the candidate's campaign or duties as a legislator. Personal  
20 and legislative living expenses shall not include expenses for  
21 food, beverages, travel, or communications incurred by the  
22 legislator in the performance of the office held.

23           "(12) POLITICAL ACTION COMMITTEE. Any committee,  
24 club, association, political party, or other group of one or  
25 more persons, whether in-state or out-of-state, which receives  
26 or anticipates receiving contributions and makes or  
27 anticipates making expenditures to or on behalf of any Alabama

1 state or local elected official, proposition, candidate,  
2 principal campaign committee or other political action  
3 committee. For the purposes of this chapter, a person who  
4 makes a political contribution shall not be considered a  
5 political action committee by virtue of making such  
6 contribution.

7 "(13) POLITICAL PARTY. A political party as defined  
8 in Section 17-13-40.

9 "(14) PRINCIPAL CAMPAIGN COMMITTEE. The principal  
10 campaign committee designated by a candidate under Section  
11 17-5-4. A political action committee established primarily to  
12 benefit an individual candidate or an individual elected  
13 official shall be considered a principal campaign committee  
14 for purposes of this chapter.

15 "(15) PROPOSITION. Any proposal for submission to  
16 the general public for its approval or rejection, including  
17 proposed as well as qualified ballot questions.

18 "(16) PUBLIC OFFICIAL. Any person elected to public  
19 office, whether or not that person has taken office, by the  
20 vote of the people at the state, county, or municipal level of  
21 government or their instrumentalities, including governmental  
22 corporations, and any person appointed to a position at the  
23 state, county, or municipal level of government or their  
24 instrumentalities, including governmental corporations. For  
25 purposes of this chapter, a public official includes the  
26 chairs and vice chairs or the equivalent offices of each state  
27 political party as defined in Section 17-13-40.

1                   "(17) STATE. The State of Alabama.

2                   "(18) STATE OFFICE. All offices under the  
3 constitution and laws of the state filled by election of the  
4 registered voters of the state or of any circuit or district  
5 and shall include legislative offices.

6                   "(b) The words and terms used in this chapter shall  
7 have the same meanings respectively ascribed to them in  
8 Section 36-25-1."

9                   Section 2. This act shall become effective on the  
10 first day of the third month following its passage and  
11 approval by the Governor, or its otherwise becoming law.