

1 SB241
2 167148-5
3 By Senator Orr
4 RFD: Constitution, Ethics and Elections
5 First Read: 17-MAR-15

1 SB241

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4 ENROLLED, An Act,

5 Relating to campaign financing; to amend Sections
6 17-5-2, 17-5-4, 17-5-5, 17-5-6, 17-5-7, 17-5-8, 17-5-9,
7 17-5-10, 17-5-19, 36-25-3, 36-25-4, 36-25-14, and 36-25-15,
8 Code of Alabama 1975; to add Sections 17-5-7.2, 17-5-19.1,
9 17-5-19.2, 17-5-21, and 36-14-18 to the Code of Alabama 1975;
10 to clarify when campaign contributions and expenditures are
11 made and would clarify the disposition of a campaign committee
12 and its assets upon its dissolution or termination; to clarify
13 that legal costs associated with a civil action, criminal
14 prosecution, or investigation reasonably related to the
15 performance of duties may be paid using campaign funds; to
16 decrease the civil penalties for failure to properly report
17 contributions or expenditures; to provide for the payment of
18 civil penalties using campaign funds; and to authorize the
19 State Ethics Commission to affirm, reduce, or set aside civil
20 penalties, to take investigative actions of potential criminal
21 violations, and to issue advisory opinions; and to provide a
22 criminal penalty for disclosing information relating to a
23 filed complaint; and in connection therewith would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds within the meaning of Amendment 621

1 of the Constitution of Alabama of 1901, now appearing as
2 Section 111.05 of the Official ReCompilation of the
3 Constitution of Alabama of 1901, as amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 17-5-2, 17-5-4, 17-5-5, 17-5-6,
6 17-5-7, 17-5-8, 17-5-9, 17-5-10, 17-5-19, 36-25-3, 35-25-4,
7 36-25-14, and 36-25-15, Code of Alabama 1975, are amended to
8 read as follows:

9 "§17-5-2.

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

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

14 "a. Taken the action necessary under the laws of the
15 state to qualify himself or herself for nomination or for
16 election to any state office or local office or in the case of
17 an independent seeking ballot access, on the date when he or
18 she files a petition with the judge of probate in the case of
19 county offices, with the appropriate qualifying municipal
20 official in the case of municipal offices, or the Secretary of
21 State in all other cases.

22 "b. Received contributions or made expenditures in
23 excess of one thousand dollars (\$1,000), or given his or her
24 consent for any other person or persons to receive
25 contributions or make expenditures in excess of one thousand

1 dollars (\$1,000), with a view to bringing about his or her
2 nomination or election to any state office or local office.

3 "(2) COMMISSION. The State Ethics Commission created
4 pursuant to Section 36-25-3.

5 ~~"(2)~~ (3) CONTRIBUTION.

6 "a. Any of the following shall be considered a
7 contribution:

8 "1. A gift, subscription, loan, advance, deposit of
9 money or anything of value, a payment, a forgiveness of a
10 loan, or payment of a third party, made for the purpose of
11 influencing the result of an election.

12 "2. A contract or agreement to make a gift,
13 subscription, loan, advance, or deposit of money or anything
14 of value for the purpose of influencing the result of an
15 election.

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

19 "4. The payment of compensation by any person for
20 the personal services or expenses of any other person if the
21 services are rendered or expenses incurred on behalf of a
22 candidate, political committee, or political party without
23 payment of full and adequate compensation by the candidate,
24 political committee, or political party. Provided, however,
25 that the payment of compensation by a corporation for the

1 purpose of establishing, administering, or soliciting
2 voluntary contributions to a separate, segregated fund as
3 permitted in this chapter, shall not constitute a
4 contribution.

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

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

9 "2. The use of real or personal property and the
10 cost of invitations, food, or beverages, voluntarily provided
11 by an individual to a candidate or political committee in
12 rendering voluntary personal services on the individual's
13 residential or business premises for election-related
14 activities.

15 "3. The sale of any food or beverage by a vendor for
16 use in an election campaign at a charge to a candidate or
17 political committee less than the normal comparable charge, if
18 the charge to the political committee for use in an election
19 campaign is at least equal to the cost of the food or beverage
20 to the vendor.

21 "4. Any unreimbursed payment for travel expenses
22 made by an individual who, on his or her own behalf,
23 volunteers personal services to a candidate or political
24 committee.

1 "5. The payment by a state or local committee of a
2 political party of the cost of preparation, display, or
3 mailing or other distribution incurred by the committee with
4 respect to a printed slate card or sample ballot, or other
5 printed listing of two or more candidates for any public
6 office for which an election is held in the state, except that
7 this subparagraph shall not apply in the case of costs
8 incurred by the committee with respect to a display of the
9 listing made on broadcasting stations, or in newspapers,
10 magazines, or other similar types of general public political
11 advertising.

12 "6. The value or cost of polling data and voter
13 preference data and information if provided to a candidate or
14 political committee, unless the information was compiled with
15 the advance knowledge of and approval of the candidate or the
16 political committee.

17 "(c) For purposes of reporting contributions as
18 required by this chapter, the date of receipt of a
19 contribution shall be the first date the recipient of the
20 contribution is able to make use of the contribution. In the
21 case of a contribution in the form of a check, the date of
22 receipt is the earlier of:

23 "1. Ten days from the date that the check came
24 within the recipient's control; or

1 "2. The date that the check was deposited into the
2 recipient's account.

3 "~~(3)~~ (4) DESIGNATED FILING AGENT. An individual
4 appointed and authorized as attorney in fact to electronically
5 submit any report or other filing required by this chapter on
6 behalf of a candidate, his or her principal campaign
7 committee, or a political action committee.

8 "~~(4)~~ (5) ELECTION. Unless otherwise specified, any
9 general, special, primary, or runoff election, or any
10 convention or caucus of a political party held to nominate a
11 candidate, or any election at which a constitutional amendment
12 or other proposition is submitted to the popular vote.

13 "~~(5)~~ (6) ELECTIONEERING COMMUNICATION. Any
14 communication disseminated through any federally regulated
15 broadcast media, any mailing, or other distribution,
16 electronic communication, phone bank, or publication which (i)
17 contains the name or image of a candidate; (ii) is made within
18 120 days of an election in which the candidate will appear on
19 the ballot; (iii) the only reasonable conclusion to be drawn
20 from the presentation and content of the communication is that
21 it is intended to influence the outcome of an election; and
22 (iv) entails an expenditure in excess of one thousand dollars
23 (\$1,000).

24 "~~(6)~~ (7) EXPENDITURE.

25 "a. The following shall be considered expenditures:

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

4 "2. A contract or agreement to make any purchase,
5 payment, distribution, loan, advance, deposit, or gift of
6 money or anything of value, for the purpose of influencing the
7 result of an election.

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

10 "4. The payment of any qualifying fee or other cost
11 associated with qualifying to run for office.

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

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

18 "2. Nonpartisan activity designed to encourage
19 individuals to register to vote, or to vote.

20 "3. Any communication by any membership organization
21 to its members or by a corporation to its stockholders and
22 employees if the membership organization or corporation is not
23 organized primarily for the purpose of influencing the result
24 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 "c. For purposes of reporting expenditures as
25 required by this chapter, the date an expenditure is made is

1 the date the instrument authorizes the expenditure. In the
2 case of an expenditure made by check or electronic payment,
3 the date of expenditure is the date of the check or electronic
4 payment.

5 ~~"(7)~~ (8) IDENTIFICATION. The full name and complete
6 address.

7 ~~"(8)~~ (9) LOAN. A transfer of money, property, or
8 anything of value in consideration of a promise or obligation,
9 conditional or not, to repay in whole or part.

10 ~~"(9)~~ (10) LOCAL OFFICE. Any office under the
11 constitution and laws of the state, except circuit, district,
12 or legislative offices, filled by election of the registered
13 voters of a single county or municipality, or by the voters of
14 a division contained within a county or municipality.

15 ~~"(10)~~ (11) PERSON. An individual, partnership,
16 committee, association, corporation, labor organization, or
17 any other organization or group of persons.

18 ~~"(11)~~ (12) PERSONAL AND LEGISLATIVE LIVING EXPENSES.
19 Household supplies, personal clothing, tuition payments,
20 mortgage, rent, or utility payments for a personal residence;
21 admission to an entertainment event or fees for a country club
22 or social club, unless tied to a specific campaign event or
23 functions involving constituents; and any other expense,
24 excluding food and beverages, that would exist irrespective of
25 the candidate's campaign or duties as a legislator. Personal

1 and legislative living expenses shall not include expenses for
2 food, beverages, travel, or communications incurred by the
3 legislator in the performance of the office held.

4 "~~(12)~~ (13) POLITICAL ACTION COMMITTEE. Any
5 committee, club, association, political party, or other group
6 of one or more persons, whether in-state or out-of-state,
7 which receives or anticipates receiving contributions and
8 makes or anticipates making expenditures to or on behalf of
9 any Alabama state or local elected official, proposition,
10 candidate, principal campaign committee or other political
11 action committee. For the purposes of this chapter, a person
12 who makes a political contribution shall not be considered a
13 political action committee by virtue of making such
14 contribution.

15 "~~(13)~~ (14) POLITICAL PARTY. A political party as
16 defined in Section 17-13-40.

17 "~~(14)~~ (15) PRINCIPAL CAMPAIGN COMMITTEE. The
18 principal campaign committee designated by a candidate under
19 Section 17-5-4. A political action committee established
20 primarily to benefit an individual candidate or an individual
21 elected official shall be considered a principal campaign
22 committee for purposes of this chapter.

23 "~~(15)~~ (16) PROPOSITION. Any proposal for submission
24 to the general public for its approval or rejection, including
25 proposed as well as qualified ballot questions.

1 "~~(16)~~ (17) PUBLIC OFFICIAL. Any person elected to
2 public office, whether or not that person has taken office, by
3 the vote of the people at the state, county, or municipal
4 level of government or their instrumentalities, including
5 governmental corporations, and any person appointed to a
6 position at the state, county, or municipal level of
7 government or their instrumentalities, including governmental
8 corporations. For purposes of this chapter, a public official
9 includes the chairs and vice chairs or the equivalent offices
10 of each state political party as defined in Section 17-13-40.

11 "~~(17)~~ (18) STATE. The State of Alabama.

12 "~~(18)~~ (19) STATE OFFICE. All offices under the
13 constitution and laws of the state filled by election of the
14 registered voters of the state or of any circuit or district
15 and shall include legislative offices.

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

19 "§17-5-4.

20 "(a) Within five days after any person becomes a
21 candidate for office, such person shall file with the
22 Secretary of State or judge of probate, as provided in Section
23 17-5-9, a statement showing the name of not less than two nor
24 more than five persons elected to serve as the principal
25 campaign committee for such candidate, together with a written

1 acceptance or consent by such committee, but any candidate may
2 declare himself or herself as the person chosen to serve as
3 the principal campaign committee, in which case such candidate
4 shall perform the duties of chair and treasurer of such
5 committee prescribed by this chapter.

6 "(b) If any vacancies ~~be~~ are created by death or
7 resignation or any other cause, such candidate may fill such
8 vacancy, or the remaining members shall discharge and complete
9 the duties required of such committee as if such vacancy had
10 not been created. The principal campaign committee, or its
11 treasurer, shall have exclusive custody of all moneys
12 contributed, donated, subscribed or in any manner furnished to
13 or for the candidate represented by such committee, and shall
14 account for and disburse the same.

15 "(c) If a candidate serves as his or her own
16 principal campaign committee, he or she shall designate a
17 person responsible for dissolving that principal campaign
18 committee in the event of death or incapacity by filing a
19 statement of dissolution and filing a termination report. If
20 the designated person is unable to serve in this capacity at
21 the time of death or incapacity, the principal campaign
22 committee shall be dissolved by the candidate's personal
23 representative as appointed by the judge of probate. All funds
24 held by the principal campaign committee at the time of death
25 shall be disposed of in a manner provided in Section 17-5-7.

1 "d) No candidate shall expend any money in aid of
2 his or her nomination or election except by contributing to
3 the principal campaign committee designated by the candidate.

4 "§17-5-5.

5 "(a) The treasurer or designated filing agent of
6 each political action committee which anticipates either
7 receiving contributions or making expenditures during the
8 calendar year in an aggregate amount exceeding one thousand
9 dollars (\$1,000) shall file with the Secretary of State or the
10 judge of probate as herein provided in Section 17-5-9, a
11 statement of organization, within 10 days after its
12 organization or, if later within 10 days after the date on
13 which it has information which causes the committee to
14 anticipate it will receive contributions or make expenditures
15 in an aggregate amount in excess of one thousand dollars
16 (\$1,000).

17 "(b) The statement of organization shall include:

18 "(1) The name and complete address of the committee.

19 "(2) The identification of affiliated or connected
20 organizations, if any.

21 "(3) The purposes of the committee.

22 "(4) The identification of the chair and treasurer.

23 "(5) The identification of principal officers,
24 including members of any finance committee.

1 "(6) A description of the constitutional amendments
2 or other propositions, if any, that the committee is
3 supporting or opposing, and the identity, if known, of any
4 candidate or elected official that the committee is supporting
5 or opposing.

6 "(7) A statement whether the committee is a
7 continuing one, and if not, the expected termination or
8 dissolution date.

9 "(8) The disposition of residual funds which will be
10 made in the event of dissolution.

11 "(c) Whenever there is any material change in
12 information previously submitted in a statement of
13 organization, except for the information described in
14 subdivision (6) above, the treasurer or designated filing
15 agent of the political action committee shall report the
16 change to the Secretary of State or judge of probate as
17 provided in Section 17-5-9, within 10 days following the
18 change.

19 "(d) Any political action committee or any principal
20 campaign committee after having filed its initial statement of
21 organization shall continue in existence until terminated or
22 dissolved as provided herein. When any political action
23 committee determines it will no longer receive contributions
24 or make expenditures during any calendar year in an aggregate
25 amount exceeding one thousand dollars (\$1,000), or when any

1 candidate through his or her principal campaign committee
2 determines that he or she will not receive contributions or
3 make expenditures in the amounts specified in Section 17-5-2,
4 the treasurer, designated filing agent, or candidate of such
5 political committee shall so notify the Secretary of State or
6 judge of probate, as designated in Section 17-5-9, of the
7 termination or dissolution of such political committee. ~~Such~~
8 ~~notice shall contain a statement by the treasurer, designated~~
9 ~~filing agent, or candidate of such committee of the intended~~
10 ~~disposition of any residual funds then held by the committee~~
11 and shall file a termination report in the same format as that
12 required by subsection (b) of Section 17-5-8. The Secretary of
13 State shall have the authority to dissolve or terminate any
14 political action committee that has maintained a zero balance
15 for one calendar year after providing a 90-day notice of
16 intent to do so by certified mail with return receipt.

17 "§17-5-6.

18 "A political action committee and a principal
19 campaign committee shall maintain a checking account, money
20 market account, or other similar banking account and shall
21 deposit any contributions received by such committee into such
22 account. No expenditure of funds may be made by any such
23 committee except by check drawn on such account, electronic
24 transfer from such account, a credit card the balance of which
25 is paid from such account, or out of a petty cash fund from

1 which it may make expenditures not in excess of one hundred
2 dollars (\$100) to any person in connection with a single
3 purchase or transaction.

4 "§17-5-7.

5 "(a) Except as provided in subsection (d) and in
6 Section 17-5-7.1, a candidate, public official, or treasurer
7 of a principal campaign committee as defined in this chapter,
8 may only use campaign contributions, and any proceeds from
9 investing the contributions that are in excess of any amount
10 necessary to defray expenditures of the candidate, public
11 official, or principal campaign committee, for the following
12 purposes:

13 "(1) Necessary and ordinary expenditures of the
14 campaign.

15 "(2) Expenditures that are reasonably related to
16 performing the duties of the office held. For purposes of this
17 section, expenditures that are reasonably related to
18 performing the duties of the office held do not include
19 personal and legislative living expenses, as defined in this
20 chapter.

21 "(3) Donations to the State General Fund, the
22 Education Trust Fund, or equivalent county or municipal funds.

23 "(4) Donations to an organization to which a federal
24 income tax deduction is permitted under subparagraph (A) of
25 paragraph (1) of subsection (b) of Section 170 of the Internal

1 Revenue Code of 1986, as amended, or any other charitable,
2 educational, or eleemosynary cause of Section 501 of Title 26
3 of the U. S. Code.

4 "(5) Inaugural or transitional expenses.

5 "(6) Donations to a legislative caucus organization
6 registered under this chapter which does not operate as a
7 political action committee.

8 "(7) Legal fees and costs associated with any civil
9 action, criminal prosecution, or investigation related to
10 conduct reasonably related to performing the duties of the
11 office held.

12 "(b) Notwithstanding any other provision of law,
13 including, but not limited to, Section 13A-10-61, a candidate,
14 public official, or principal campaign committee may only
15 accept, solicit, or receive contributions:

16 "(1) To influence the outcome of an election.

17 "(2) For a period of 12 months before an election in
18 which the person intends to be a candidate. Provided, however,
19 candidates for legislative and statewide office and their
20 principal campaign committees may not accept, solicit, or
21 receive contributions during the period when the Legislature
22 is convened in session. For purposes of this section, the
23 Legislature is convened in session at any time from the
24 opening day of the special or regular session and continued
25 through the day of adjournment sine die for that session.

1 However, this subdivision shall not apply within 120 days of
2 any primary, runoff, or general election, and shall not apply
3 to the candidates or their principal campaign committees
4 participating in any special election as called by the
5 Governor. This subdivision shall not apply to a loan from a
6 candidate to his or her own principal campaign committee.

7 "(3) For a period of 120 days after the election in
8 which the person was a candidate, but only to the extent of
9 any campaign debt of the candidate or principal campaign
10 committee of the candidate as indicated on the campaign
11 financial disclosure form or to the extent of reaching the
12 threshold that is required for qualification as a candidate
13 for the office which he or she currently holds, or both.

14 "(4) For the purpose of paying all expenses
15 associated with an election challenge including, but not
16 limited to, quo warranto challenges.

17 "(c) Notwithstanding any other provision of law,
18 including, but not limited to, Section 13A-10-61, a candidate,
19 public official, or principal campaign committee shall not
20 accept, solicit, or receive contributions for any of the
21 following reasons:

22 "(1) As a bribe, as defined by Sections 13A-10-60 to
23 13A-10-63, inclusive.

1 "(2) For the intention of corruptly influencing the
2 official actions of the public official or candidate for
3 public office.

4 "(d) Notwithstanding any other provision of law, a
5 principal campaign committee, during a two-year period
6 commencing on the day after each regularly scheduled general
7 election and ending on the day of the next regularly scheduled
8 general election, may pay qualifying fees to a political party
9 and in addition thereto, during that period, may expend up to
10 a cumulative total of five thousand dollars (\$5,000) of
11 campaign contributions, and any proceeds from investing the
12 contributions, for the following purposes:

13 "(1) Tickets for political party dinners or
14 functions.

15 "(2) State or local political party dues or similar
16 expenses incurred by independent or write-in candidates.

17 "§17-5-8.

18 "(a) The treasurer, designated filing agent, or
19 candidate, shall file with the Secretary of State or judge of
20 probate, as designated in Section 17-5-9, periodic reports of
21 contributions and expenditures at the following times once a
22 principal campaign committee files its statement under Section
23 17-5-4 or a political action committee files its statement of
24 organization under Section 17-5-5:

1 "(1) Beginning after the 2012 election cycle,
2 regardless of whether a candidate has opposition in any
3 election, monthly reports not later than the second business
4 day of the subsequent month, beginning 12 months before the
5 date of any primary, special, runoff, or general election for
6 which a political action committee or principal campaign
7 committee receives contributions or makes expenditures with a
8 view toward influencing such election's result. A monthly
9 report shall include all reportable transactions for the
10 previous full month period. Reports shall be required as
11 provided in subdivisions (2) and (3).

12 "(2) With regard to a primary, special, runoff, or
13 general election, a report shall be required weekly on the
14 Monday of the succeeding week for each of the four weeks
15 before the election that includes all reportable activities
16 for the previous week.

17 "(3)a. In addition to the reporting dates specified
18 in subdivisions (1) and (2), reports required to be filed with
19 the Secretary of State shall be filed with the Secretary of
20 State on the eighth, seventh, sixth, fifth, fourth, third, and
21 second day preceding a legislative, state school board, or
22 other statewide primary, special, runoff, or general election,
23 and by 12:01 p.m. on the day preceding a legislative, state
24 school board, or statewide, primary, special, runoff, or
25 general election if any principal campaign committee or

1 political action committee receives or spends in the aggregate
2 five thousand dollars (\$5,000) or more on ~~any~~ that day with a
3 view toward influencing an election's results. If a daily
4 report is required pursuant to this subdivision, the report
5 shall include all reportable activity occurring on the day of
6 the report as well as all reportable activity that has
7 occurred on each day since the most recent prior report.
8 Principal campaign committees and political action committees
9 that are exempt from electronic filing and principal campaign
10 committees and political action committees required to make
11 daily reports pursuant to this subdivision for the 2012
12 election cycle may file reports by facsimile (FAX)
13 transmission provided they keep proper documentation in their
14 office.

15 "b. Electronic filing on the Secretary of State's
16 website may be implemented sooner than the 2014 election cycle
17 as an alternative method of reporting; however, electronic
18 filing shall be required beginning with the 2014 election
19 cycle. Electronic filings shall be available to the public on
20 a searchable database maintained on the Secretary of State's
21 website.

22 "(b) Except as provided in subsection (k), each
23 principal campaign committee, political action committee, and
24 elected state and local official covered under the provisions
25 of this chapter who has not closed his or her principal

1 campaign committee, shall annually file with the Secretary of
2 State or judge of probate, as designated in Section 17-5-9,
3 reports of contributions and expenditures made during that
4 year. No annual report is required to be filed by a person who
5 holds office because he or she was appointed to serve the
6 remainder of a term vacated by another person, until the
7 person serving has created a principal campaign committee. The
8 annual reports required under this subsection shall be made on
9 or before January 31 of the succeeding year.

10 "(c) Each report under this section shall disclose:

11 "(1) The amount of cash or other assets on hand at
12 the beginning of the reporting period and forward until the
13 end of that reporting period and disbursements made from same.

14 "(2) The identification of each person who has made
15 contributions to such committee or candidate within the
16 calendar year in an aggregate amount greater than one hundred
17 dollars (\$100), together with the amount and date of all such
18 contributions; provided, however, in the case of a political
19 action committee identification shall mean the name and city
20 of residence of each person who has made contributions within
21 the calendar year in an aggregate amount greater than one
22 hundred dollars (\$100).

23 "(3) The total amount of other contributions
24 received during the calendar year but not reported under
25 subdivision (c) (2) of this section.

1 "(4) Each loan to or from any person within the
2 calendar year in an aggregate amount greater than one hundred
3 dollars (\$100), together with the identification of the
4 lender, the identification of the endorsers, or guarantors, if
5 any, and the date and amount of such loans.

6 "(5) The total amount of receipts from any other
7 source during such calendar year.

8 "(6) The grand total of all receipts by or for such
9 committee during the calendar year.

10 "(7) The identification of each person to whom
11 expenditures have been made by or on behalf of such committee
12 or elected official within the calendar year in an aggregate
13 amount greater than one hundred dollars (\$100), the amount,
14 date, and purpose of each such expenditure, and, if
15 applicable, the designation of each constitutional amendment
16 or other proposition with respect to which an expenditure was
17 made.

18 "(8) The identification of each person to whom an
19 expenditure for personal services, salaries, and reimbursed
20 expenses greater than one hundred dollars (\$100) has been
21 made, and which is not otherwise reported or exempted from the
22 provisions of this chapter, including the amount, date, and
23 purpose of such expenditure.

24 "(9) The grand total of all expenditures made by
25 such committee or elected official during the calendar year.

1 "(10) The amount and nature of debts and obligations
2 owed by or to the committee or elected official, together with
3 a statement as to the circumstances and conditions under which
4 any such debt or obligation was extinguished and the
5 consideration therefor.

6 "(d) Each report required by this section shall be
7 signed and filed by the elected official or on behalf of the
8 political action committee by its chair or treasurer and, if
9 filed on behalf of a principal campaign committee, by the
10 candidate represented by such committee. There shall be
11 attached to each such report an affidavit subscribed and sworn
12 to by the official or chair or treasurer and, if filed by a
13 principal campaign committee, the candidate represented by
14 such committee, setting forth in substance that such report is
15 to the best of his or her knowledge and belief in all respects
16 true and complete, and, if made by a candidate, that he or she
17 has not received any contributions or made any expenditures
18 which are not set forth and covered by such report.

19 "(e) Commencing with the 2014 election cycle,
20 electronic filing of contributions and expenditures for any
21 legislative, state school board, and statewide primary,
22 special, runoff, or general election shall be mandatory,
23 except as provided in subsection (g). The Secretary of State
24 may provide electronic reporting sooner than the 2014 election
25 cycle. Electronic filing shall satisfy any filing requirements

1 of this chapter and no paper filing is required for any report
2 filed electronically.

3 "(f) In the 2012 election cycle the provisions for
4 the time of filing contained in subsection (a) shall apply to
5 the paper or facsimile (FAX) filings for any legislative,
6 state school board, or statewide primary, special, runoff, or
7 general election.

8 "(g) Electronic filing of reports shall not apply to
9 any campaign, principal campaign committee, or political
10 action committee receiving ~~ten~~ five thousand dollars ~~(\$10,000)~~
11 (\$5,000) or less per election cycle.

12 "(h) In connection with any electioneering
13 communication paid for by a person, nonprofit corporation,
14 entity, principal campaign committee, or other political
15 committee or entity, the payor shall disclose its
16 contributions and expenditures in accordance with this
17 section. The disclosure shall be made in the same form and at
18 the same time as is required of political action committees in
19 this section; provided, however, no duplicate reporting shall
20 be required by a political committee.

21 "(i) Notwithstanding any disclosure requirements of
22 subsection (h), churches are exempt from the requirements of
23 this section unless the church's expenditures are used to
24 influence the outcome of an election. Nothing herein shall
25 require a church to disclose the identities, donations, or

1 contributions of members of the church. As used in this
2 section, the term church is defined in accordance with and
3 recognized by Internal Revenue Service guidelines and
4 regulations.

5 "(j) Notwithstanding the disclosure requirements of
6 this section, the provisions of this section shall not be
7 interpreted to nor shall they require any disclosure for
8 expenses incurred for any electioneering communication used by
9 any membership or trade organization to communicate with or
10 inform its members, its members' families, or its members'
11 employees or for any electioneering communication by a
12 business entity of any type to its employees or stockholders
13 or their families.

14 "(k) Each report required by this section shall
15 include all reportable transactions occurring since the most
16 recent prior report; however, duplicate reporting is not
17 required by this section. A political action committee or
18 principal campaign committee that is required to file a daily
19 report is not required to also file a weekly report for the
20 week preceding an election specified in subdivision (3) of
21 subsection (a); a committee required to file a weekly report
22 is not required to also file a monthly report in the month in
23 which the election is held; and a committee required to file a
24 monthly report is not required to also file an annual report
25 in the year in which the election is held. The monetary

1 balance in a report of each committee shall begin at the
2 monetary amount appearing in the most recent prior report.

3 "(1) The Secretary of State may promulgate
4 administrative rules pursuant to the Alabama Administrative
5 Procedure Act as are necessary to implement and administer the
6 changes made to this section by Act 2012-477.

7 "§17-5-9.

8 "(a) All statements and reports, including
9 amendments, required of principal campaign committees under
10 the provisions of this chapter shall be filed with the
11 Secretary of State in the case of candidates for state office
12 or state elected officials, and in the case of candidates for
13 local office or local elected officials, with the judge of
14 probate of the county in which the office is sought for the
15 2016 election cycle.

16 "(b) Political action committees, which seek to
17 influence an election for local office or to influence a
18 proposition regarding a single county, shall file all reports
19 and statements, including amendments, with the judge of
20 probate of the county affected. All other political action
21 committees, except as provided in subsection (a) above, shall
22 file reports and statements with the Secretary of State.

23 "(c) In the case of candidates for a municipal
24 office where the municipality is located in more than one
25 county, the statements and reports shall be filed in the

1 county where the city hall of the municipality is located. The
2 judge of probate of the county where the report is filed, if
3 the municipality is located in more than one county, shall
4 provide a copy of the report to the judge of probate of the
5 other county or counties where the municipality is located.

6 "(d) ~~Commencing with~~ For the 2014 and 2016 election
7 ~~cycle cycles,~~ all principal campaign committees and political
8 action committees that file with the judge of probate, other
9 than candidates for municipal office, may choose instead to
10 file electronically with the Secretary of State pursuant to
11 this chapter. Any such principal campaign committee or
12 political action committee that chooses to file electronically
13 with the Secretary of State shall first provide notice to the
14 appropriate judge of probate, in a manner prescribed by the
15 judge of probate, indicating that choice and shall continue to
16 file electronically with the Secretary of State until
17 terminated or dissolved pursuant to this chapter.

18 "(e) Commencing with the 2018 election cycle, all
19 principal campaign committees and political action committees
20 that file with the judge of probate, other than candidates for
21 municipal office, shall file electronically with the Secretary
22 of State pursuant to this chapter.

23 "§17-5-10.

1 "(a) Each report or statement shall be preserved and
2 a copy made available for public inspection by the Secretary
3 of State or judge of probate, whichever is applicable.

4 "(b) The date of filing of a report or statement
5 filed pursuant to this chapter shall be deemed to be the date
6 of receipt by the Secretary of State or judge of probate, as
7 the case may be; provided, that any report or statement filed
8 by certified or registered mail shall be deemed to be filed in
9 a timely fashion if the date of the United States postmark
10 stamped on such report or statement is ~~at least two days prior~~
11 ~~to~~ the required filing date, and if such report or statement
12 is properly addressed with postage prepaid.

13 "§17-5-19.

14 "(a) Except as otherwise provided in this section, a
15 person who intentionally violates any provision of this
16 chapter shall be guilty, upon conviction, of a Class A
17 misdemeanor.

18 "(b) A person who intentionally violates any
19 reporting requirement of Sections 17-5-4, 17-5-5, or 17-5-8
20 shall be guilty, upon conviction, of a Class A misdemeanor. A
21 person's failure to promptly file a required report upon
22 discovering or receiving notice from any person that the
23 report has not been filed, or the failure to promptly correct
24 an omission, error, or other discrepancy in a filed report
25 upon discovering or receiving notice of the discrepancy, shall

1 create a rebuttable presumption of intent to violate the
2 applicable reporting requirement.

3 "(c) Any person who intentionally violates Section
4 17-5-7 shall be guilty, upon conviction, of a Class B felony.

5 ~~"(d) A person who fails to timely or accurately file
6 any report required by this chapter shall be assessed a civil
7 penalty of the greater of three hundred dollars (\$300) or ten
8 percent of the amount not properly reported for a first
9 offense in an election cycle, six hundred dollars (\$600) or 15
10 percent of the amount not properly reported for a second
11 offense in an election cycle, and one thousand two hundred
12 dollars (\$1,200) or 20 percent of the amount not properly
13 reported for a third or subsequent offense in an election
14 cycle. A fourth failure to timely or accurately file a report
15 in an election cycle shall create a rebuttable presumption of
16 intent to violate the reporting requirements of this chapter.
17 Civil penalties shall be paid to the appropriate filing
18 official. All penalties collected by a judge of probate shall
19 be distributed to that county's general fund, and all
20 penalties collected by the Secretary of State shall be
21 distributed to the State General Fund. A person who
22 voluntarily files an amended report to correct an error in an
23 otherwise timely filed report, without being prompted by a
24 filing official shall not be subjected to a civil penalty
25 under this subsection, so long as, in the case of a candidate,~~

1 ~~the corrected report is filed prior to the election at issue,~~
2 ~~and so long as, in the case of a political action committee,~~
3 ~~the corrected report is filed prior to the election which the~~
4 ~~contribution was given to influence.~~

5 ~~"(e)~~ (d) The Attorney General or district attorney
6 for the appropriate jurisdiction may prosecute violations of
7 this chapter. Venue for cases involving violations of this
8 chapter shall be in the county in which the violation occurred
9 or the county in which the alleged violator resides or is
10 incorporated. If the alleged violator resides or is
11 incorporated outside of the State of Alabama or if the
12 violation or violations occurred outside the State of Alabama,
13 venue shall be in Montgomery County.

14 ~~"(f)~~ (e) No prosecution for violation of this chapter
15 shall be commenced later than two years after the date of
16 violation. Notwithstanding the foregoing, a prosecution
17 brought pursuant to Section 17-5-7 shall be commenced within
18 four years after the commission of the offense.

19 "§36-25-3.

20 "(a) There is hereby created a State Ethics
21 Commission composed of five members, each of whom shall be a
22 fair, equitable citizen of this state and of high moral
23 character and ability. The following persons shall not be
24 eligible to be appointed as members: (1) a public official;
25 (2) a candidate; (3) a registered lobbyist and his or her

1 principal; or (4) a former employee of the commission. No
2 member of the commission shall be eligible for reappointment
3 to succeed himself or herself. The members of the commission
4 shall be appointed by the following officers: The Governor,
5 the Lieutenant Governor, or in the absence of a Lieutenant
6 Governor, the Presiding Officer of the Senate, and the Speaker
7 of the House of Representatives. Appointments shall be subject
8 to Senate confirmation and persons appointed shall assume
9 their duties upon confirmation by the Senate. The members of
10 the first commission shall be appointed for terms of office
11 expiring one, two, three, four, and five years, respectively,
12 from September 1, 1975. Successors to the members of the first
13 commission shall serve for a term of five years beginning
14 service on September 1 of the year appointed and serving until
15 their successors are appointed and confirmed. If at any time
16 there should be a vacancy on the commission, a successor
17 member to serve for the unexpired term applicable to such
18 vacancy shall be appointed by the Governor. The commission
19 shall elect one member to serve as chair of the commission and
20 one member to serve as vice chair. The vice chair shall act as
21 chair in the absence or disability of the chair or in the
22 event of a vacancy in that office.

23 "Beginning with the first vacancy on the Ethics
24 Commission after October 1, 1995, if there is not a Black
25 member serving on the commission, that vacancy shall be filled

1 by a Black appointee. Any vacancy thereafter occurring on the
2 commission shall also be filled by a Black appointee if there
3 is no Black member serving on the commission at that time.

4 "Beginning with the first vacancy on the State
5 Ethics Commission after January 1, 2011, the commission shall
6 always have as a member a State of Alabama-licensed attorney
7 in good standing.

8 "Beginning with the first vacancy on the State
9 Ethics Commission after January 1, 2016, the commission shall
10 always have as a member a former elected public official who
11 served at least two terms of office.

12 "(b) A vacancy in the commission shall not impair
13 the right of the remaining members to exercise all the powers
14 of the commission, and three members thereof shall constitute
15 a quorum.

16 "(c) The commission shall at the close of each
17 fiscal year, or as soon thereafter as practicable, report to
18 the Legislature and the Governor concerning the actions it has
19 taken, the name, salary, and duties of the director, the names
20 and duties of all individuals in its employ, the money it has
21 disbursed, other relevant matters within its jurisdiction, and
22 such recommendations for legislation as the commission deems
23 appropriate.

24 "(d) Members of the commission, while serving on the
25 business of the commission, shall be entitled to receive

1 compensation at the rate of fifty dollars (\$50) per day, and
2 each member shall be paid his or her travel expenses incurred
3 in the performance of his or her duties as a member of the
4 commission as other state employees and officials are paid
5 when approved by the chair. If for any reason a member of the
6 commission wishes not to claim and accept the compensation or
7 travel expenses, the member shall inform the director, in
8 writing, of the refusal. The member may at any time during his
9 or her term begin accepting compensation or travel expenses;
10 however, the member's refusal for any covered period shall act
11 as an irrevocable waiver for that period.

12 "(e) All members, officers, agents, attorneys, and
13 employees of the commission shall be subject to this chapter.
14 The director, members of the commission, and all employees of
15 the commission may not engage in partisan political activity,
16 including the making of campaign contributions, on the state,
17 county, and local levels. The prohibition shall in no way act
18 to limit or restrict such persons' ability to vote in any
19 election.

20 "(f) The commission shall appoint a full-time
21 director. Appointment of the director shall be subject to
22 Senate confirmation, and the person appointed shall assume his
23 or her duties upon confirmation by the Senate. If the Senate
24 fails to vote on an appointee's confirmation before adjourning
25 sine die during the session in which the director is

1 appointed, the appointee is deemed to be confirmed. No
2 appointee whose confirmation is rejected by the Senate may be
3 reappointed. The director shall serve at the pleasure of the
4 commission and shall appoint such other employees as needed.
5 All such employees, except the director, shall be employed
6 subject to the state Merit System law, and their compensation
7 shall be prescribed pursuant to that law. The employment of
8 attorneys shall be subject to subsection (h). The compensation
9 of the director shall be fixed by the commission, payable as
10 the salaries of other state employees. The director shall be
11 responsible for the administrative operations of the
12 commission and shall administer this chapter in accordance
13 with the commission's policies. No rule shall be implemented
14 by the director until adopted by the commission in accordance
15 with Sections 41-22-1 to 41-22-27, inclusive, the Alabama
16 Administrative Procedure Act.

17 "(g) The director may appoint part-time stenographic
18 reporters or certified court reporters, as needed, to take and
19 transcribe the testimony in any formal or informal hearing or
20 investigation before the commission or before any person
21 authorized by the commission. The reporters are not full-time
22 employees of the commission, are not subject to the Merit
23 System law, and may not participate in the State Retirement
24 System.

1 "(h) The director, with the approval of the Attorney
2 General, may appoint ~~a~~ competent ~~attorney~~ attorneys as legal
3 counsel for the commission. ~~The legal counsel~~ Each attorney so
4 appointed shall be of good moral and ethical character,
5 licensed to practice law in this state, and be a member in
6 good standing of the Alabama State Bar Association. ~~The legal~~
7 ~~counsel~~ Each attorney shall be commissioned as an assistant or
8 deputy attorney general and, in addition to the powers and
9 duties herein conferred, shall have the authority and duties
10 of an assistant or deputy attorney general, except, that his
11 or her entire time shall be devoted to the commission. ~~The~~
12 Each attorney shall act ~~as an attorney for~~ on behalf of the
13 commission in actions or proceedings brought by or against the
14 commission pursuant to any law under the commission's
15 jurisdiction or in which the commission joins or intervenes as
16 to a matter within the commission's jurisdiction or as a
17 friend of the court or otherwise.

18 "(i) The director shall designate in writing the
19 chief investigator, should there be one, and a maximum of ~~six~~
20 eight full-time investigators who shall be and are hereby
21 constituted law enforcement officers of the State of Alabama
22 with full and unlimited police power and jurisdiction to
23 enforce the laws of this state pertaining to the operation and
24 administration of the commission and this chapter.
25 Investigators shall meet the requirements of the Alabama Peace

1 Officers' Standards and Training Act, Sections 36-21-40 to
2 36-21-51, inclusive, and shall in all ways and for all
3 purposes be considered law enforcement officers entitled to
4 all benefits provided in Section 36-15-6(f). Notwithstanding
5 the foregoing, the investigators shall only exercise their
6 power of arrest as granted under this chapter pursuant to an
7 order issued by a court of competent jurisdiction.

8 "§36-25-4.

9 "(a) The commission shall do all of the following:

10 "(1) Prescribe forms for statements required to be
11 filed by this chapter and make the forms available to persons
12 required to file such statements.

13 "(2) Prepare guidelines setting forth recommended
14 uniform methods of reporting for use by persons required to
15 file statements required by this chapter.

16 "(3) Accept and file any written information
17 voluntarily supplied that exceeds the requirements of this
18 chapter.

19 "(4) Develop, where practicable, a filing, coding,
20 and cross-indexing system consistent with the purposes of this
21 chapter.

22 "(5) Make reports and statements filed with the
23 commission available during regular business hours and online
24 via the Internet to public inquiry subject to such regulations
25 as the commission may prescribe.

1 "(6) Preserve reports and statements for a period
2 consistent with the statute of limitations as contained in
3 this chapter. The reports and statements, when no longer
4 required to be retained, shall be disposed of by shredding the
5 reports and statements and disposing of or recycling them, or
6 otherwise disposing of the reports and statements in any other
7 manner prescribed by law. Nothing in this section shall in any
8 manner limit the Department of Archives and History from
9 receiving and retaining any documents pursuant to existing
10 law.

11 "(7) Make investigations with respect to statements
12 filed pursuant to this chapter, and with respect to alleged
13 failures to file, or omissions contained therein, any
14 statement required pursuant to this chapter and, upon
15 complaint by any individual, with respect to alleged violation
16 of any part of this chapter to the extent authorized by law.
17 When in its opinion a thorough audit of any person or any
18 business should be made in order to determine whether this
19 chapter has been violated, the commission shall direct the
20 Examiner of Public Accounts to have an audit made and a report
21 thereof filed with the commission. The Examiner of Public
22 Accounts, upon receipt of the directive, shall comply
23 therewith.

24 "(8) Report suspected violations of law to the
25 appropriate law-enforcement authorities.

1 "(9) Issue and publish advisory opinions on the
2 requirements of this chapter, based on a real or hypothetical
3 set of circumstances. Such advisory opinions shall be adopted
4 by a majority vote of the members of the commission present
5 and shall be effective and deemed valid until expressly
6 overruled or altered by the commission or a court of competent
7 jurisdiction. The written advisory opinions of the commission
8 shall protect the person at whose request the opinion was
9 issued and any other person reasonably relying, in good faith,
10 on the advisory opinion in a materially like circumstance from
11 liability to the state, a county, or a municipal subdivision
12 of the state because of any action performed or action
13 refrained from in reliance of the advisory opinion. Nothing in
14 this section shall be deemed to protect any person relying on
15 the advisory opinion if the reliance is not in good faith, is
16 not reasonable, is not in a materially like circumstance. The
17 commission may impose reasonable charges for publication of
18 the advisory opinions and monies shall be collected,
19 deposited, dispensed, or retained as provided herein. On
20 October 1, 1995, all prior advisory opinions of the commission
21 in conflict with this chapter, shall be ineffective and
22 thereby deemed invalid and otherwise overruled unless there
23 has been any action performed or action refrained from in
24 reliance of a prior advisory opinion.

1 "(10) Initiate and continue, where practicable,
2 programs for the purpose of educating candidates, officials,
3 employees, and citizens of Alabama on matters of ethics in
4 government service.

5 "(11) In accordance with Sections 41-22-1 to
6 41-22-27, inclusive, the Alabama Administrative Procedure Act,
7 prescribe, publish, and enforce rules to carry out this
8 chapter.

9 "(b) Additionally, the commission shall work with
10 the Secretary of State to implement the reporting requirements
11 of the Alabama Fair Campaign Practices Act and shall do all of
12 the following:

13 "(1) Approve all forms required by the Fair Campaign
14 Practices Act.

15 "(2) Suggest accounting methods for candidates,
16 principal campaign committees, and political action committees
17 in connection with reports and filings required by the Fair
18 Campaign Practices Act.

19 "(3) Approve a retention policy for all reports,
20 filings, and underlying documentation required by the Fair
21 Campaign Practices Act.

22 "(4) Approve a manual for all candidates, principal
23 campaign committees, and political action committees,
24 describing the requirements of the Fair Campaign Practices Act
25 that shall be published by the Secretary of State.

1 "(5) Investigate and hold hearings for receiving
2 evidence regarding alleged violations of the Fair Campaign
3 Practices Act as set forth in this chapter that demonstrates a
4 likelihood that the Fair Campaign Practices Act has been
5 violated.

6 "(6) Conduct or authorize audits of any filings
7 required under the Fair Campaign Practices Act if evidence
8 exists that an audit is warranted because of the filing of a
9 complaint in the form required by this chapter or if there
10 exists a material discrepancy or conflict on the face of any
11 filing required by the Fair Campaign Practices Act.

12 "(7) Affirm, set aside, or reduce civil penalties as
13 provided in Section 17-5-19.2.

14 "(8) Refer all evidence and information necessary to
15 the Attorney General or appropriate district attorney for
16 prosecution of any criminal violation of the Fair Campaign
17 Practices Act as set forth in this chapter.

18 "(9) Make investigations with respect to statements
19 filed pursuant to the Fair Campaign Practices Act, and with
20 respect to alleged failures to file, or omissions contained
21 therein, any statement required pursuant to the Fair Campaign
22 Practices Act and, upon complaint by any individual, with
23 respect to alleged violation of any part of that act to the
24 extent authorized by law. When in its opinion a thorough audit
25 of any person or any business should be made in order to

1 determine whether the Fair Campaign Practices Act has been
2 violated, the commission shall direct the Examiner of Public
3 Accounts to have an audit made and a report thereof filed with
4 the commission. The Examiner of Public Accounts, upon receipt
5 of the directive, shall comply therewith.

6 "(10) Issue and publish advisory opinions on the
7 requirements of the Fair Campaign Practices Act, based on a
8 real or hypothetical set of circumstances. Such advisory
9 opinions shall be adopted by a majority vote of the members of
10 the commission present and shall be effective and deemed valid
11 until expressly overruled or altered by the commission or a
12 court of competent jurisdiction. The written advisory opinions
13 of the commission shall protect the person at whose request
14 the opinion was issued and any other person reasonably
15 relying, in good faith, on the advisory opinion in a
16 materially like circumstance from liability of any kind
17 because of any action performed or action refrained from in
18 reliance of the advisory opinion. Nothing in this section
19 shall be deemed to protect any person relying on the advisory
20 opinion if the reliance is not in good faith, is not
21 reasonable, is not in a materially like circumstance. The
22 commission may impose reasonable charges for publication of
23 the advisory opinions and monies shall be collected,
24 deposited, dispensed, or retained as provided herein.

1 "(11) In accordance with Sections 41-22-1 to
2 41-22-27, inclusive, the Alabama Administrative Procedure Act,
3 prescribe, publish, and enforce rules to carry out this
4 section.

5 "~~(b)~~ (c) Except as necessary to permit the sharing
6 of information and evidence with the Attorney General or a
7 district attorney, a complaint filed pursuant to this chapter
8 or the Fair Campaign Practices Act, together with any
9 statement, evidence, or information received from the
10 complainant, witnesses, or other persons shall be protected by
11 and subject to the same restrictions relating to secrecy and
12 nondisclosure of information, conversation, knowledge, or
13 evidence of Sections 12-16-214 to 12-16-216, inclusive, except
14 that a violation of this section shall constitute a Class C
15 felony. Such restrictions shall apply to all investigatory
16 activities taken by the director, the commission, or a member
17 thereof, staff, employees, or any person engaged by the
18 commission in response to a complaint filed with the
19 commission and to all proceedings relating thereto before the
20 commission. Such restrictions shall also apply to all
21 information and evidence supplied to the Attorney General or
22 district attorney.

23 "~~(c)~~ (d) The commission shall not take any
24 investigatory action on a telephonic or written complaint
25 against a respondent so long as the complainant remains

1 anonymous. Investigatory action on a complaint from an
2 identifiable source shall not be initiated until the true
3 identity of the source has been ascertained and written
4 verification of such ascertainment is in the commission's
5 files. The complaint may only be filed by a person who has or
6 persons who have credible and verifiable information
7 supporting the allegations contained in the complaint. A
8 complainant may not file a complaint for another person or
9 persons in order to circumvent this subsection. Prior to
10 commencing any investigation, the commission shall: (1)
11 receive a written and signed complaint which sets forth in
12 detail the specific charges against a respondent, and the
13 factual allegations which support such charges; and (2) the
14 director shall conduct a preliminary inquiry in order to make
15 an initial determination that the complaint, on its face
16 alleges facts which if true, would constitute a violation of
17 this chapter or the Fair Campaign Practices Act and that
18 reasonable cause exists to conduct an investigation. If the
19 director determines that the complaint does not allege a
20 violation or that reasonable cause does not exist, the charges
21 shall be dismissed, but such action must be reported to the
22 commission. The commission shall be entitled to authorize an
23 investigation upon written consent of four commission members,
24 upon an express finding that probable cause exists that a
25 violation or violations of this chapter or the Fair Campaign

1 Practices Act have occurred. Upon the commencement of any
2 investigation, the Alabama Rules of Criminal Procedure as
3 applicable to the grand jury process promulgated by the
4 Alabama Supreme Court shall apply and shall remain in effect
5 until the complaint is dismissed or disposed of in some other
6 manner. A complaint may be initiated by a vote of four members
7 of the commission, provided, however, that the commission
8 shall not conduct the hearing, but rather the hearing shall be
9 conducted by three active or retired judges, who shall be
10 appointed by the Chief Justice of the Alabama Supreme Court,
11 at least one of whom shall be Black. The three-judge panel
12 shall conduct the hearing in accordance with the procedures
13 contained in this chapter and in accordance with the rules of
14 the commission. If the three-judge panel unanimously finds
15 that a person covered by this chapter has violated it or that
16 the person covered by the Fair Campaign Practices Act has
17 violated that act, the three-judge panel shall forward the
18 case to the district attorney for the jurisdiction in which
19 the alleged acts occurred or to the Attorney General. In all
20 matters that come before the commission concerning a complaint
21 on an individual, the laws of due process shall apply.

22 "~~(d)~~ (e) Not less than 45 days prior to any hearing
23 before the commission, the respondent shall be given notice
24 that a complaint has been filed against him or her and shall
25 be given a summary of the charges contained therein. Upon the

1 timely request of the respondent, a continuance of the hearing
2 for not less than 30 days shall be granted for good cause
3 shown. The respondent charged in the complaint shall have the
4 right to be represented by retained legal counsel. The
5 commission may not require the respondent to be a witness
6 against himself or herself.

7 "~~(e)~~ (f) The commission shall provide discovery to
8 the respondent pursuant to the Alabama Rules of Criminal
9 Procedure as promulgated by the Alabama Supreme Court.

10 "~~(f)~~ (g) (1) All fees, penalties, and fines collected
11 by the commission pursuant to this chapter shall be deposited
12 into the State General Fund.

13 "(2) All monies collected as reasonable payment of
14 costs for copying, reproductions, publications, and lists
15 shall be deemed a refund against disbursement and shall be
16 deposited into the appropriate fund account for the use of the
17 commission.

18 "~~(g)~~ (h) In the course of an investigation, the
19 commission may subpoena witnesses and compel their attendance
20 and may also require the production of books, papers,
21 documents, and other evidence. If any person fails to comply
22 with any subpoena lawfully issued, or if any witness refuses
23 to produce evidence or to testify as to any matter relevant to
24 the investigation, it shall be the duty of any court of
25 competent jurisdiction or the judge thereof, upon the

1 application of the director, to compel obedience upon penalty
2 for contempt, as in the case of disobedience of a subpoena
3 issued for such court or a refusal to testify therein. A
4 subpoena may be issued only upon the vote of four members of
5 the commission upon the express written request of the
6 director. The subpoena shall be subject to Rules 17.1, 17.2,
7 17.3, and 17.4 of the Alabama Rules of Criminal Procedure. The
8 commission upon seeking issuance of the subpoena shall serve a
9 notice to the recipient of the intent to serve such subpoena.
10 Upon the expiration of 10 days from the service of the notice
11 and the proposed subpoena shall be attached to the notice. Any
12 person or entity served with a subpoena may serve an objection
13 to the issuance of the subpoena within 10 days after service
14 of the notice on the grounds set forth under Rule 17.3(c) of
15 the Alabama Rules of Criminal Procedure, and in such event the
16 subpoena shall not issue until an order to dismiss, modify, or
17 issue the subpoena is entered by a state court of proper
18 jurisdiction, the order to be entered within 30 days after
19 making of the objection. Any vote taken by the members of the
20 commission relative to the issuance of a subpoena shall be
21 protected by and subject to the restrictions relating to
22 secrecy and nondisclosure of information, conversation,
23 knowledge, or evidence of Sections 12-16-214 to 12-16-216,
24 inclusive.

1 "~~(h)~~ (i) After receiving or initiating a complaint,
2 the commission has 180 days to determine whether probable
3 cause exists. At the expiration of 180 days from the date of
4 receipt or commencement of a complaint, if the commission does
5 not find probable cause, the complaint shall be deemed
6 dismissed and cannot be reinstated based on the same facts
7 alleged in the complaint. Upon good cause shown from the
8 general counsel and chief investigator, the director may
9 request from the commission a one-time extension of 180 days.
10 Upon the majority vote of the commission, the staff may be
11 granted a one-time extension of 180 days in which to complete
12 the investigation. If the commission finds probable cause that
13 a person covered by this chapter has violated it or that the
14 person covered by the Fair Campaign Practices Act has violated
15 that act, the case and the commission's findings shall be
16 forwarded to the district attorney for the jurisdiction in
17 which the alleged acts occurred or to the Attorney General.
18 The case, along with the commission's findings, shall be
19 referred for appropriate legal action. Nothing in this section
20 shall be deemed to limit the commission's ability to take
21 appropriate legal action when so requested by the district
22 attorney for the appropriate jurisdiction or by the Attorney
23 General.

24 "~~(i)~~ (j) Within 180 days of receiving a case
25 referred by the commission, the Attorney General or district

1 attorney to whom the case was referred may, upon written
2 request of the commission notify the commission, in writing,
3 stating whether he or she intends to take action against the
4 respondent, including an administrative disposition or
5 settlement, conduct further investigation, or close the case
6 without taking action. If the Attorney General or district
7 attorney decides to pursue the case, he or she, upon written
8 request of the commission, may inform the commission of the
9 final disposition of the case. The written information
10 pursuant to this section shall be maintained by the commission
11 and made available upon request as a public record. The
12 director may request an oral status update from the Attorney
13 General or district attorney from time to time.

14 "§36-25-14.

15 "(a) A statement of economic interests shall be
16 completed and filed in accordance with this chapter with the
17 commission no later than April 30 of each year covering the
18 period of the preceding calendar year by each of the
19 following:

20 "(1) All elected public officials at the state,
21 county, or municipal level of government or their
22 instrumentalities.

23 "(2) Any person appointed as a public official and
24 any person employed as a public employee at the state, county,
25 or municipal level of government or their instrumentalities

1 who occupies a position whose base pay is seventy-five
2 thousand dollars (\$75,000) or more annually, as adjusted by
3 the commission by January 31 of each year to reflect changes
4 in the U.S. Department of Labor's Consumer Price Index, or a
5 successor index.

6 "(3) All candidates, ~~simultaneously with the date he~~
7 ~~or she becomes a candidate as defined in Section 17-22A-2, or~~
8 ~~the date the candidate files his or her qualifying papers,~~
9 whichever comes first provided the statement is filed on the
10 date the candidate files his or her qualifying papers or, in
11 the case of an independent candidate, on the date the
12 candidate complies with the requirements of Section 17-9-3.

13 "(4) Members of the Alabama Ethics Commission;
14 appointed members of boards and commissions having statewide
15 jurisdiction (but excluding members of solely advisory
16 boards).

17 "(5) All full-time nonmerit employees, other than
18 those employed in maintenance, clerical, secretarial, or other
19 similar positions.

20 "(6) Chief clerks and chief managers.

21 "(7) Chief county clerks and chief county managers.

22 "(8) Chief administrators.

23 "(9) Chief county administrators.

24 "(10) Any public official or public employee whose
25 primary duty is to invest public funds.

1 "(11) Chief administrative officers of any political
2 subdivision.

3 "(12) Chief and assistant county building
4 inspectors.

5 "(13) Any county or municipal administrator with
6 power to grant or deny land development permits.

7 "(14) Chief municipal clerks.

8 "(15) Chiefs of police.

9 "(16) Fire chiefs.

10 "(17) City and county school superintendents and
11 school board members.

12 "(18) City and county school principals or
13 administrators.

14 "(19) Purchasing or procurement agents having the
15 authority to make any purchase.

16 "(20) Directors and assistant directors of state
17 agencies.

18 "(21) Chief financial and accounting directors.

19 "(22) Chief grant coordinators.

20 "(23) Each employee of the Legislature or of
21 agencies, including temporary committees and commissions
22 established by the Legislature, other than those employed in
23 maintenance, clerical, secretarial, or similar positions.

24 "(24) Each employee of the Judicial Branch of
25 government, including active supernumerary district attorneys

1 and judges, other than those employed in maintenance,
2 clerical, secretarial, or other similar positions.

3 "(25) Every full-time public employee serving as a
4 supervisor.

5 "(b) Unless otherwise required by law, no public
6 employee occupying a position earning less than seventy-five
7 thousand dollars (\$75,000) per year shall be required to file
8 a statement of economic interests, as adjusted by the
9 commission by January 31 of each year to reflect changes in
10 the U.S. Department of Labor's Consumer Price Index, or a
11 successor index. Notwithstanding the provisions of subsection
12 (a) or any other provision of this chapter, no coach of an
13 athletic team of any four-year institution of higher education
14 which receives state funds shall be required to include any
15 income, donations, gifts, or benefits, other than salary, on
16 the statement of economic interests, if the income, donations,
17 gifts, or benefits are a condition of the employment contract.
18 Such statement shall be made on a form made available by the
19 commission. The duty to file the statement of economic
20 interests shall rest with the person covered by this chapter.
21 Nothing in this chapter shall be construed to exclude any
22 public employee or public official from this chapter
23 regardless of whether they are required to file a statement of
24 economic interests. The statement shall contain the following
25 information on the person making the filing:

1 "(1) Name, residential address, business; name,
2 address, and business of living spouse and dependents; name of
3 living adult children; name of parents and siblings; name of
4 living parents of spouse. Undercover law enforcement officers
5 may have their residential addresses and the names of family
6 members removed from public scrutiny by filing an affidavit
7 stating that publicizing this information would potentially
8 endanger their families.

9 "(2) A list of occupations to which one third or
10 more of working time was given during previous reporting year
11 by the public official, public employee, or his or her spouse.

12 "(3) A listing of total combined household income of
13 the public official or public employee during the most recent
14 reporting year as to income from salaries, fees, dividends,
15 profits, commissions, and other compensation and listing the
16 names of each business and the income derived from such
17 business in the following categorical amounts: less than one
18 thousand dollars (\$1,000); at least one thousand dollars
19 (\$1,000) and less than ten thousand dollars (\$10,000); at
20 least ten thousand dollars (\$10,000) and less than fifty
21 thousand dollars (\$50,000); at least fifty thousand dollars
22 (\$50,000) and less than one hundred fifty thousand dollars
23 (\$150,000); at least one hundred fifty thousand dollars
24 (\$150,000) and less than two hundred fifty thousand dollars
25 (\$250,000); or at least two hundred fifty thousand dollars

1 (\$250,000) or more. The person reporting shall also name any
2 business or subsidiary thereof in which he or she or his or
3 her spouse or dependents, jointly or severally, own five
4 percent or more of the stock or in which he or she or his or
5 her spouse or dependents serves as an officer, director,
6 trustee, or consultant where the service provides income of at
7 least one thousand dollars (\$1,000) and less than five
8 thousand dollars (\$5,000); or at least five thousand dollars
9 (\$5,000) or more for the reporting period.

10 "(4) If the filing public official or public
11 employee, or his or her spouse, has engaged in a business
12 during the last reporting year which provides legal,
13 accounting, medical or health related, real estate, banking,
14 insurance, educational, farming, engineering, architectural
15 management, or other professional services or consultations,
16 then the filing party shall report the number of clients of
17 such business in each of the following categories and the
18 income in categorical amounts received during the reporting
19 period from the combined number of clients in each category:
20 Electric utilities, gas utilities, telephone utilities, water
21 utilities, cable television companies, intrastate
22 transportation companies, pipeline companies, oil or gas
23 exploration companies, or both, oil and gas retail companies,
24 banks, savings and loan associations, loan or finance
25 companies, or both, manufacturing firms, mining companies,

1 life insurance companies, casualty insurance companies, other
2 insurance companies, retail companies, beer, wine or liquor
3 companies or distributors, or combination thereof, trade
4 associations, professional associations, governmental
5 associations, associations of public employees or public
6 officials, counties, and any other businesses or associations
7 that the commission may deem appropriate. Amounts received
8 from combined clients in each category shall be reported in
9 the following categorical amounts: Less than one thousand
10 dollars (\$1,000); more than one thousand dollars (\$1,000) and
11 less than ten thousand dollars (\$10,000); at least ten
12 thousand dollars (\$10,000) and less than twenty-five thousand
13 dollars (\$25,000); at least twenty-five thousand dollars
14 (\$25,000) and less than fifty thousand dollars (\$50,000); at
15 least fifty thousand dollars (\$50,000) and less than one
16 hundred thousand dollars (\$100,000); at least one hundred
17 thousand dollars (\$100,000) and less than one hundred fifty
18 thousand dollars (\$150,000); at least one hundred fifty
19 thousand dollars (\$150,000) and less than two hundred fifty
20 thousand dollars (\$250,000); or at least two hundred fifty
21 thousand dollars (\$250,000) or more.

22 "(5) If retainers are in existence or contracted for
23 in any of the above categories of clients, a listing of the
24 categories along with the anticipated income to be expected
25 annually from each category of clients shall be shown in the

1 following categorical amounts: Less than one thousand dollars
2 (\$1,000); at least one thousand dollars (\$1,000) and less than
3 five thousand dollars (\$5,000); or at least five thousand
4 dollars (\$5,000) or more.

5 "(6) If real estate is held for investment or
6 revenue production by a public official, his or her spouse or
7 dependents, then a listing thereof in the following fair
8 market value categorical amounts: Under fifty thousand dollars
9 (\$50,000); at least fifty thousand dollars (\$50,000) and less
10 than one hundred thousand dollars (\$100,000); at least one
11 hundred thousand dollars (\$100,000) and less than one hundred
12 fifty thousand dollars (\$150,000); at least one hundred fifty
13 thousand dollars (\$150,000) and less than two hundred fifty
14 thousand dollars (\$250,000); at least two hundred fifty
15 thousand dollars (\$250,000) or more. A listing of annual gross
16 rent and lease income on real estate shall be made in the
17 following categorical amounts: Less than ten thousand dollars
18 (\$10,000); at least ten thousand dollars (\$10,000) and less
19 than fifty thousand dollars (\$50,000); fifty thousand dollars
20 (\$50,000) or more. If a public official or a business in which
21 the person is associated received rent or lease income from
22 any governmental agency in Alabama, specific details of the
23 lease or rent agreement shall be filed with the commission.

24 "(7) A listing of indebtedness to businesses
25 operating in Alabama showing types and number of each as

1 follows: Banks, savings and loan associations, insurance
2 companies, mortgage firms, stockbrokers and brokerages or bond
3 firms; and the indebtedness to combined organizations in the
4 following categorical amounts: Less than twenty-five thousand
5 dollars (\$25,000); twenty-five thousand dollars (\$25,000) and
6 less than fifty thousand dollars (\$50,000); fifty thousand
7 dollars (\$50,000) and less than one hundred thousand dollars
8 (\$100,000); one hundred thousand dollars (\$100,000) and less
9 than one hundred fifty thousand dollars (\$150,000); one
10 hundred fifty thousand dollars (\$150,000) and less than two
11 hundred fifty thousand dollars (\$250,000); two hundred fifty
12 thousand dollars (\$250,000) or more. The commission may add
13 additional business to this listing. Indebtedness associated
14 with the homestead of the person filing is exempted from this
15 disclosure requirement.

16 "(c) Filing required by this section shall reflect
17 information and facts in existence at the end of the reporting
18 year.

19 "(d) If the information required herein is not filed
20 as required, the commission shall notify the public official
21 or public employee concerned as to his or her failure to so
22 file and the public official or public employee shall have 10
23 days to file the report after receipt of the notification. The
24 commission may, in its discretion, assess a fine of ten

1 dollars (\$10) a day, not to exceed one thousand dollars
2 (\$1,000), for failure to file timely.

3 "(e) A person who intentionally violates any
4 financial disclosure filing requirement of this chapter shall
5 be subject to administrative fines imposed by the commission,
6 or shall, upon conviction, be guilty of a Class A misdemeanor,
7 or both.

8 "Any person who unintentionally neglects to include
9 any information relating to the financial disclosure filing
10 requirements of this chapter shall have 90 days to file an
11 amended statement of economic interests without penalty.

12 "§36-25-15.

13 "(a) Candidates at every level of government shall
14 file a completed statement of economic interests for the
15 previous calendar year with the ~~appropriate election official~~
16 State Ethics Commission simultaneously with ~~the date he or she~~
17 ~~becomes a candidate as defined in Section 17-22A-2 or the date~~
18 such candidate files his or her qualifying papers with the
19 appropriate election official, ~~whichever date occurs first.~~
20 ~~Such election official shall within five days forward the~~
21 ~~statement of economic interests of the candidate to the~~
22 ~~commission.~~ or in the case of an independent candidate, the
23 date the person complies with the requirements of Section
24 17-9-3. Nothing in this section shall be deemed to require a
25 second filing of the person's statement of economic interests

1 if a current statement of economic interests is on file with
2 the commission.

3 "(b) Each election official who receives a
4 declaration of candidacy or petition to appear on the ballot
5 for election from a candidate ~~and each official who nominates~~
6 ~~a person to serve as a public official~~ shall, within five days
7 of the receipt ~~or nomination~~, notify the commission of the
8 name of the candidate, as defined in this chapter, and the
9 date on which the person became a candidate ~~or was nominated~~
10 ~~as a public official~~. The commission shall, within five
11 business days of receipt of such notification, notify the
12 election official whether the candidate has complied with the
13 provisions of this section.

14 "(c) Other provisions of the law notwithstanding, if
15 a candidate does not submit a statement of economic interests
16 or when applicable, an amended statement of economic interests
17 in accordance with the requirements of this chapter, the name
18 of the person shall not appear on the ballot and the candidate
19 shall be deemed not qualified as a candidate in that election.
20 Notwithstanding the foregoing, the commission may, for good
21 cause shown, allow the candidate an additional five days to
22 file such statement of economic interests. If a candidate is
23 deemed not qualified, the appropriate election official shall
24 remove the name of the candidate from the ballot."

1 Section 2. Sections 17-5-7.2, 17-5-19.1, 17-5-19.2,
2 17-5-21, and 36-14-18 are added to the Code of Alabama 1975,
3 to read as follows:

4 §17-5-7.2. Disposal of campaign property.

5 (a) Except as provided in subsection (b), property
6 purchased by or contributed to a principal campaign committee
7 with a value of five hundred dollars (\$500) or more shall be
8 liquidated at fair market value or donated to a qualified
9 entity pursuant to subsection (a) of Section 17-5-7 not more
10 than 120 days following the election. Any funds generated by
11 the liquidation of the property shall be deposited in the
12 candidate's principal campaign committee account.

13 (b) Property purchased by or contributed to a
14 principal campaign committee that can be used by the person in
15 the performance of his or her duties of the office he or she
16 was elected to hold need not be liquidated as long as he or
17 she holds office.

18 §17-5-19.1. Civil penalties.

19 (a) Commencing with the 2018 election cycle, the
20 appropriate election official, based on the location of filing
21 as required by Section 17-5-9, shall levy an administrative
22 penalty against any person who fails to timely file a report
23 required by this chapter and who does not remedy the filing of
24 the report pursuant to subsection (h). The State Ethics
25 Commission shall have the authority to levy an administrative

1 penalty against any person who files a materially inaccurate
2 report required by this chapter and who does not remedy the
3 filing of the report pursuant to subsection (g).

4 (b) The schedule of civil penalties shall be as
5 follows:

6 (1) The lesser of three hundred dollars (\$300) or 10
7 percent of the amount of contributions or expenditures not
8 properly reported for a first offense in an election cycle.

9 (2) The lesser of six hundred dollars (\$600) or 15
10 percent of the amount of contributions or expenditures not
11 properly reported for a second offense in an election cycle.

12 (3) The lesser of one thousand two hundred dollars
13 (\$1,200) or 20 percent of the amount of contributions or
14 expenditures not properly reported for a third or subsequent
15 offense in an election cycle.

16 (c) A fourth failure to timely or accurately file a
17 report in an election cycle shall create a rebuttable
18 presumption of intent to violate the reporting requirements of
19 this chapter. The Secretary of State or judge of probate, as
20 appropriate based on the location of filing, shall notify the
21 Attorney General and the appropriate district attorney of all
22 persons who violate the filing requirements four or more times
23 in an election cycle.

24 (d) Upon imposition of a civil penalty pursuant to
25 this section, the appropriate filing official shall send the

1 person upon whom the penalty is being imposed proper
2 notification by certified mail of the imposition of the
3 penalty. If an electronic mail address is on file with the
4 Secretary of State, the Secretary of State shall also provide
5 such notification by electronic mail.

6 (e) Civil penalties levied shall be paid to the
7 appropriate filing official within 45 days of the finality of
8 any review. The Secretary of State or judge of probate,
9 through his or her attorney, may institute proceedings to
10 recover any penalties ordered pursuant to this section that
11 are not paid by, or on behalf of, the person against whom they
12 are levied and may collect necessary fees and costs associated
13 with the collection action.

14 (f) All penalties collected by a judge of probate
15 shall be distributed to that county's general fund, and all
16 penalties collected by the Secretary of State shall be
17 distributed to the State General Fund.

18 (g) A person who voluntarily files an amended report
19 to correct an error in an otherwise timely filed report
20 without being prompted by a filing official shall not have
21 committed an offense or be subjected to a civil penalty under
22 this subsection, so long as, in the case of a candidate, the
23 corrected report is filed prior to the election at issue, and
24 so long as, in the case of a political action committee, the

1 corrected report is filed prior to the close of the calendar
2 year.

3 (h) Failure to file a timely report shall not be
4 considered an offense or subjected to a civil penalty pursuant
5 to subsection (a) so long as it is the first failure by that
6 candidate or political action committee for the election cycle
7 and the report is filed within 48 hours of the time it was
8 due.

9 (i) Any penalties assessed pursuant to this section
10 may be paid with campaign funds.

11 §17-5-19.2. Administrative review.

12 (a) Any person upon whom a civil penalty has been
13 imposed pursuant to Section 17-5-19.1 may seek a review of
14 such penalty by filing a written notice with the Secretary of
15 State or judge of probate no later than 14 days after the date
16 on which notification of the imposition of the penalty was
17 mailed to the person's last known address in accordance with
18 Section 17-5-19.1. The Secretary of State or judge of probate
19 shall refer such review to the State Ethics Commission.

20 (b) The commission may set aside or reduce a civil
21 penalty upon a showing of good cause. The person seeking
22 review shall bear the burden of proof.

23 §17-5-21. Administrative rules.

24 The Secretary of State is authorized to promulgate
25 administrative rules pursuant to the Alabama Administrative

1 Procedure Act as necessary to implement and administer the
2 Alabama Fair Campaign Practices Act.

3 §36-14-18.

4 The Secretary of State shall perform all duties
5 required by the Alabama Fair Campaign Practices Act,
6 including, but not limited to, the following:

7 (1) Maintain a system for the electronic filing of
8 campaign finance reports.

9 (2) Levy and collect civil penalties for failure to
10 file timely reports.

11 (3) Work cooperatively with the State Ethics
12 Commission to fully implement and enforce all campaign finance
13 laws.

14 Section 3. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 4. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB241

Senate 19-MAY-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 04-JUN-15

By: Senator Orr