

1 SB241
2 165283-2
3 By Senator Orr
4 RFD: Constitution, Ethics and Elections
5 First Read: 17-MAR-15

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8 SYNOPSIS: Under existing law, the Fair Campaign
9 Practices Act governs political action committees,
10 principal campaign committees, and campaign
11 contributions and expenditures.

12 This bill would clarify when campaign
13 contributions and expenditures are made and would
14 clarify the disposition of a campaign committee and
15 its assets upon its dissolution or termination.

16 This bill would clarify that legal costs
17 associated with a civil action, criminal
18 prosecution, or investigation reasonably related to
19 the performance of duties may be paid using
20 campaign funds.

21 This bill would decrease the civil penalties
22 for failure to properly report contributions or
23 expenditures.

24 This bill would provide for the payment of
25 civil penalties using campaign funds.

26 This bill would create a State Campaign
27 Finance Commission and provide for its membership.

1 This bill would also authorize the State
2 Campaign Finance Commission to affirm, reduce, or
3 set aside civil penalties, to take investigative
4 actions of potential criminal violations, and to
5 issue advisory opinions. A complaint filed would be
6 subject to secrecy protections and a violation
7 would be punishable as a Class C felony.

8 Amendment 621 of the Constitution of Alabama
9 of 1901, now appearing as Section 111.05 of the
10 Official Recompilation of the Constitution of
11 Alabama of 1901, as amended, prohibits a general
12 law whose purpose or effect would be to require a
13 new or increased expenditure of local funds from
14 becoming effective with regard to a local
15 governmental entity without enactment by a 2/3 vote
16 unless: it comes within one of a number of
17 specified exceptions; it is approved by the
18 affected entity; or the Legislature appropriates
19 funds, or provides a local source of revenue, to
20 the entity for the purpose.

21 The purpose or effect of this bill would be
22 to require a new or increased expenditure of local
23 funds within the meaning of the amendment. However,
24 the bill does not require approval of a local
25 governmental entity or enactment by a 2/3 vote to
26 become effective because it comes within one of the
27 specified exceptions contained in the amendment.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT

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6 Relating to campaign financing; to designate as
7 Article 1 Sections 17-5-1 to 17-5-21, inclusive, Code of
8 Alabama 1975; to amend Sections 17-5-2, 17-5-4, 17-5-5,
9 17-5-6, 17-5-7, 17-5-8, 17-5-9, 17-5-10, 17-5-19, 36-25-14,
10 and 36-25-15, Code of Alabama 1975; to add Sections 17-5-7.2,
11 17-5-19.1, 17-5-19.2, 17-5-21, and 36-14-18 to the Code of
12 Alabama 1975; to add a new Article 2, consisting of Sections
13 17-5-30 to 17-5-35, inclusive, to Title 17, Chapter 5 of the
14 Code of Alabama 1975; to clarify when campaign contributions
15 and expenditures are made and would clarify the disposition of
16 a campaign committee and its assets upon its dissolution or
17 termination; to clarify that legal costs associated with a
18 civil action, criminal prosecution, or investigation
19 reasonably related to the performance of duties may be paid
20 using campaign funds; to decrease the civil penalties for
21 failure to properly report contributions or expenditures; to
22 provide for the payment of civil penalties using campaign
23 funds; to create a State Campaign Finance Commission and
24 provide for its membership and to authorize the State Campaign
25 Finance Commission to affirm, reduce, or set aside civil
26 penalties, to take investigative actions of potential criminal
27 violations, and to issue advisory opinions; and to provide a

1 criminal penalty for disclosing information relating to a
2 filed complaint; and in connection therewith would have as its
3 purpose or effect the requirement of a new or increased
4 expenditure of local funds within the meaning of Amendment 621
5 of the Constitution of Alabama of 1901, now appearing as
6 Section 111.05 of the Official ReCompilation of the
7 Constitution of Alabama of 1901, as amended.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. An article heading is added before
10 Section 17-5-1 of the Code of Alabama 1975, to read as
11 follows:

12 ARTICLE 1. Fair Campaign Practices.

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

17 "§17-5-2.

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

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

22 "a. Taken the action necessary under the laws of the
23 state to qualify himself or herself for nomination or for
24 election to any state office or local office or in the case of
25 an independent seeking ballot access, on the date when he or
26 she files a petition with the judge of probate in the case of
27 county offices, with the appropriate qualifying municipal

1 official in the case of municipal offices, or the Secretary of
2 State in all other cases.

3 "b. Received contributions or made expenditures in
4 excess of one thousand dollars (\$1,000), or given his or her
5 consent for any other person or persons to receive
6 contributions or make expenditures in excess of one thousand
7 dollars (\$1,000), with a view to bringing about his or her
8 nomination or election to any state office or local office.

9 "(2) COMMISSION. The State Campaign Finance
10 Commission created pursuant to Section 17-5-30.

11 "~~(2)~~ (3) CONTRIBUTION.

12 "a. Any of the following shall be considered a
13 contribution:

14 "1. A gift, subscription, loan, advance, deposit of
15 money or anything of value, a payment, a forgiveness of a
16 loan, or payment of a third party, made for the purpose of
17 influencing the result of an election.

18 "2. A contract or agreement to make a gift,
19 subscription, loan, advance, or deposit of money or anything
20 of value for the purpose of influencing the result of an
21 election.

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

25 "4. The payment of compensation by any person for
26 the personal services or expenses of any other person if the
27 services are rendered or expenses incurred on behalf of a

1 candidate, political committee, or political party without
2 payment of full and adequate compensation by the candidate,
3 political committee, or political party. Provided, however,
4 that the payment of compensation by a corporation for the
5 purpose of establishing, administering, or soliciting
6 voluntary contributions to a separate, segregated fund as
7 permitted in this chapter, shall not constitute a
8 contribution.

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

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

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

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

25 "4. Any unreimbursed payment for travel expenses
26 made by an individual who, on his or her own behalf,

1 volunteers personal services to a candidate or political
2 committee.

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

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

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

25 "1. Ten days from the date that the check came
26 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.

25 "4. The use of real or personal property and the
26 cost of invitations, food, or beverages, voluntarily provided
27 by an individual in rendering voluntary personal services on

1 the individual's residential or business premises for
2 election-related activities.

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

7 "6. Any communication by any person which is not
8 made for the purposes of influencing the result of an
9 election.

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

21 "c. For purposes of reporting expenditures as
22 required by this chapter, the date an expenditure is made is
23 the date the instrument authorizes the expenditure. In the
24 case of an expenditure made by check or electronic payment,
25 the date of expenditure is the date of the check or electronic
26 payment.

1 "~~(7)~~ (8) IDENTIFICATION. The full name and complete
2 address.

3 "~~(8)~~ (9) LOAN. A transfer of money, property, or
4 anything of value in consideration of a promise or obligation,
5 conditional or not, to repay in whole or part.

6 "~~(9)~~ (10) LOCAL OFFICE. Any office under the
7 constitution and laws of the state, except circuit, district,
8 or legislative offices, filled by election of the registered
9 voters of a single county or municipality, or by the voters of
10 a division contained within a county or municipality.

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

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

25 "~~(12)~~ (13) POLITICAL ACTION COMMITTEE. Any
26 committee, club, association, political party, or other group
27 of one or more persons, whether in-state or out-of-state,

1 which receives or anticipates receiving contributions and
2 makes or anticipates making expenditures to or on behalf of
3 any Alabama state or local elected official, proposition,
4 candidate, principal campaign committee or other political
5 action committee. For the purposes of this chapter, a person
6 who makes a political contribution shall not be considered a
7 political action committee by virtue of making such
8 contribution.

9 ~~"(13)~~ (14) POLITICAL PARTY. A political party as
10 defined in Section 17-13-40.

11 ~~"(14)~~ (15) PRINCIPAL CAMPAIGN COMMITTEE. The
12 principal campaign committee designated by a candidate under
13 Section 17-5-4. A political action committee established
14 primarily to benefit an individual candidate or an individual
15 elected official shall be considered a principal campaign
16 committee for purposes of this chapter.

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

20 ~~"(16)~~ (17) PUBLIC OFFICIAL. Any person elected to
21 public office, whether or not that person has taken office, by
22 the vote of the people at the state, county, or municipal
23 level of government or their instrumentalities, including
24 governmental corporations, and any person appointed to a
25 position at the state, county, or municipal level of
26 government or their instrumentalities, including governmental
27 corporations. For purposes of this chapter, a public official

1 includes the chairs and vice chairs or the equivalent offices
2 of each state political party as defined in Section 17-13-40.

3 "~~(17)~~ (18) STATE. The State of Alabama.

4 "~~(18)~~ (19) STATE OFFICE. All offices under the
5 constitution and laws of the state filled by election of the
6 registered voters of the state or of any circuit or district
7 and shall include legislative offices.

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

11 "§17-5-4.

12 "(a) Within five days after any person becomes a
13 candidate for office, such person shall file with the
14 Secretary of State or judge of probate, as provided in Section
15 17-5-9, a statement showing the name of not less than two nor
16 more than five persons elected to serve as the principal
17 campaign committee for such candidate, together with a written
18 acceptance or consent by such committee, but any candidate may
19 declare himself or herself as the person chosen to serve as
20 the principal campaign committee, in which case such candidate
21 shall perform the duties of chair and treasurer of such
22 committee prescribed by this chapter.

23 "(b) If any vacancies ~~be~~ are created by death or
24 resignation or any other cause, such candidate may fill such
25 vacancy, or the remaining members shall discharge and complete
26 the duties required of such committee as if such vacancy had
27 not been created. The principal campaign committee, or its

1 treasurer, shall have exclusive custody of all moneys
2 contributed, donated, subscribed or in any manner furnished to
3 or for the candidate represented by such committee, and shall
4 account for and disburse the same.

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

16 "(d) No candidate shall expend any money in aid of
17 his or her nomination or election except by contributing to
18 the principal campaign committee designated by the candidate.

19 "§17-5-5.

20 "(a) The treasurer or designated filing agent of
21 each political action committee which anticipates either
22 receiving contributions or making expenditures during the
23 calendar year in an aggregate amount exceeding one thousand
24 dollars (\$1,000) shall file with the Secretary of State or the
25 judge of probate as herein provided in Section 17-5-9, a
26 statement of organization, within 10 days after its
27 organization or, if later within 10 days after the date on

1 which it has information which causes the committee to
2 anticipate it will receive contributions or make expenditures
3 in an aggregate amount in excess of one thousand dollars
4 (\$1,000).

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

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

7 "(2) The identification of affiliated or connected
8 organizations, if any.

9 "(3) The purposes of the committee.

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

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

13 "(6) A description of the constitutional amendments
14 or other propositions, if any, that the committee is
15 supporting or opposing, and the identity, if known, of any
16 candidate or elected official that the committee is supporting
17 or opposing.

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

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

23 "(c) Whenever there is any material change in
24 information previously submitted in a statement of
25 organization, except for the information described in
26 subdivision (6) above, the treasurer or designated filing
27 agent of the political action committee shall report the

1 change to the Secretary of State or judge of probate as
2 provided in Section 17-5-9, within 10 days following the
3 change.

4 "(d) Any political action committee or any principal
5 campaign committee after having filed its initial statement of
6 organization shall continue in existence until terminated or
7 dissolved as provided herein. When any political action
8 committee determines it will no longer receive contributions
9 or make expenditures during any calendar year in an aggregate
10 amount exceeding one thousand dollars (\$1,000), or when any
11 candidate through his or her principal campaign committee
12 determines that he or she will not receive contributions or
13 make expenditures in the amounts specified in Section 17-5-2,
14 the treasurer, designated filing agent, or candidate of such
15 political committee shall so notify the Secretary of State or
16 judge of probate, as designated in Section 17-5-9, of the
17 termination or dissolution of such political committee. ~~Such~~
18 ~~notice shall contain a statement by the treasurer, designated~~
19 ~~filing agent, or candidate of such committee of the intended~~
20 ~~disposition of any residual funds then held by the committee~~
21 and shall file a termination report in the same format as that
22 required by subsection (b) of Section 17-5-8. The Secretary of
23 State shall have the authority to dissolve or terminate any
24 political action committee that has maintained a zero balance
25 for one calendar year after providing a 90-day notice of
26 intent to do so by certified mail with return receipt.

27 "§17-5-6.

1 "A political action committee and a principal
2 campaign committee shall maintain a checking account, money
3 market account, or other similar banking account and shall
4 deposit any contributions received by such committee into such
5 account. No expenditure of funds may be made by any such
6 committee except by check drawn on such account, electronic
7 transfer from such account, a credit card the balance of which
8 is paid from such account, or out of a petty cash fund from
9 which it may make expenditures not in excess of one hundred
10 dollars (\$100) to any person in connection with a single
11 purchase or transaction.

12 "§17-5-7.

13 "(a) Except as provided in subsection (d) and in
14 Section 17-5-7.1, a candidate, public official, or treasurer
15 of a principal campaign committee as defined in this chapter,
16 may only use campaign contributions, and any proceeds from
17 investing the contributions that are in excess of any amount
18 necessary to defray expenditures of the candidate, public
19 official, or principal campaign committee, for the following
20 purposes:

21 "(1) Necessary and ordinary expenditures of the
22 campaign.

23 "(2) Expenditures that are reasonably related to
24 performing the duties of the office held. For purposes of this
25 section, expenditures that are reasonably related to
26 performing the duties of the office held do not include

1 personal and legislative living expenses, as defined in this
2 chapter.

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

5 "(4) Donations to an organization to which a federal
6 income tax deduction is permitted under subparagraph (A) of
7 paragraph (1) of subsection (b) of Section 170 of the Internal
8 Revenue Code of 1986, as amended, or any other charitable,
9 educational, or eleemosynary cause of Section 501 of Title 26
10 of the U. S. Code.

11 "(5) Inaugural or transitional expenses.

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

15 "(7) Legal fees and costs associated with any civil
16 action, criminal prosecution, or investigation related to
17 conduct reasonably related to performing the duties of the
18 office held.

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

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

24 "(2) For a period of 12 months before an election in
25 which the person intends to be a candidate. Provided, however,
26 candidates for legislative and statewide office and their
27 principal campaign committees may not accept, solicit, or

1 receive contributions during the period when the Legislature
2 is convened in session. For purposes of this section, the
3 Legislature is convened in session at any time from the
4 opening day of the special or regular session and continued
5 through the day of adjournment sine die for that session.
6 However, this subdivision shall not apply within 120 days of
7 any primary, runoff, or general election, and shall not apply
8 to the candidates or their principal campaign committees
9 participating in any special election as called by the
10 Governor. This subdivision shall not apply to a loan from a
11 candidate to his or her own principal campaign committee.

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

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

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

1 "(1) As a bribe, as defined by Sections 13A-10-60 to
2 13A-10-63, inclusive.

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

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

15 "(1) Tickets for political party dinners or
16 functions.

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

19 "§17-5-8.

20 "(a) The treasurer, designated filing agent, or
21 candidate, shall file with the Secretary of State or judge of
22 probate, as designated in Section 17-5-9, periodic reports of
23 contributions and expenditures at the following times once a
24 principal campaign committee files its statement under Section
25 17-5-4 or a political action committee files its statement of
26 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
26 political action committee receives or spends in the aggregate
27 five thousand dollars (\$5,000) or more on ~~any~~ that day with a

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

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

20 "(b) Except as provided in subsection (k), each
21 principal campaign committee, political action committee, and
22 elected state and local official covered under the provisions
23 of this chapter who has not closed his or her principal
24 campaign committee, shall annually file with the Secretary of
25 State or judge of probate, as designated in Section 17-5-9,
26 reports of contributions and expenditures made during that
27 year. No annual report is required to be filed by a person who

1 holds office because he or she was appointed to serve the
2 remainder of a term vacated by another person, until the
3 person serving has created a principal campaign committee. The
4 annual reports required under this subsection shall be made on
5 or before January 31 of the succeeding year.

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

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

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

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

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

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

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

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

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

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

21 "(10) The amount and nature of debts and obligations
22 owed by or to the committee or elected official, together with
23 a statement as to the circumstances and conditions under which
24 any such debt or obligation was extinguished and the
25 consideration therefor.

26 "(d) Each report required by this section shall be
27 signed and filed by the elected official or on behalf of the

1 political action committee by its chair or treasurer and, if
2 filed on behalf of a principal campaign committee, by the
3 candidate represented by such committee. There shall be
4 attached to each such report an affidavit subscribed and sworn
5 to by the official or chair or treasurer and, if filed by a
6 principal campaign committee, the candidate represented by
7 such committee, setting forth in substance that such report is
8 to the best of his or her knowledge and belief in all respects
9 true and complete, and, if made by a candidate, that he or she
10 has not received any contributions or made any expenditures
11 which are not set forth and covered by such report.

12 "(e) Commencing with the 2014 election cycle,
13 electronic filing of contributions and expenditures for any
14 legislative, state school board, and statewide primary,
15 special, runoff, or general election shall be mandatory,
16 except as provided in subsection (g). The Secretary of State
17 may provide electronic reporting sooner than the 2014 election
18 cycle. Electronic filing shall satisfy any filing requirements
19 of this chapter and no paper filing is required for any report
20 filed electronically.

21 "(f) In the 2012 election cycle the provisions for
22 the time of filing contained in subsection (a) shall apply to
23 the paper or facsimile (FAX) filings for any legislative,
24 state school board, or statewide primary, special, runoff, or
25 general election.

26 "(g) Electronic filing of reports shall not apply to
27 any campaign, principal campaign committee, or political

1 action committee receiving ~~ten~~ five thousand dollars ~~(\$10,000)~~
2 (\$5,000) or less per election cycle.

3 "(h) In connection with any electioneering
4 communication paid for by a person, nonprofit corporation,
5 entity, principal campaign committee, or other political
6 committee or entity, the payor shall disclose its
7 contributions and expenditures in accordance with this
8 section. The disclosure shall be made in the same form and at
9 the same time as is required of political action committees in
10 this section; provided, however, no duplicate reporting shall
11 be required by a political committee.

12 "(i) Notwithstanding any disclosure requirements of
13 subsection (h), churches are exempt from the requirements of
14 this section unless the church's expenditures are used to
15 influence the outcome of an election. Nothing herein shall
16 require a church to disclose the identities, donations, or
17 contributions of members of the church. As used in this
18 section, the term church is defined in accordance with and
19 recognized by Internal Revenue Service guidelines and
20 regulations.

21 "(j) Notwithstanding the disclosure requirements of
22 this section, the provisions of this section shall not be
23 interpreted to nor shall they require any disclosure for
24 expenses incurred for any electioneering communication used by
25 any membership or trade organization to communicate with or
26 inform its members, its members' families, or its members'
27 employees or for any electioneering communication by a

1 business entity of any type to its employees or stockholders
2 or their families.

3 "(k) Each report required by this section shall
4 include all reportable transactions occurring since the most
5 recent prior report; however, duplicate reporting is not
6 required by this section. A political action committee or
7 principal campaign committee that is required to file a daily
8 report is not required to also file a weekly report for the
9 week preceding an election specified in subdivision (3) of
10 subsection (a); a committee required to file a weekly report
11 is not required to also file a monthly report in the month in
12 which the election is held; and a committee required to file a
13 monthly report is not required to also file an annual report
14 in the year in which the election is held. The monetary
15 balance in a report of each committee shall begin at the
16 monetary amount appearing in the most recent prior report.

17 "(l) The Secretary of State may promulgate
18 administrative rules pursuant to the Alabama Administrative
19 Procedure Act as are necessary to implement and administer the
20 changes made to this section by Act 2012-477.

21 "§17-5-9.

22 "(a) All statements and reports, including
23 amendments, required of principal campaign committees under
24 the provisions of this chapter shall be filed with the
25 Secretary of State in the case of candidates for state office
26 or state elected officials, and in the case of candidates for

1 local office or local elected officials, with the judge of
2 probate of the county in which the office is sought.

3 "(b) Political action committees, which seek to
4 influence an election for local office or to influence a
5 proposition regarding a single county, shall file all reports
6 and statements, including amendments, with the judge of
7 probate of the county affected. All other political action
8 committees, except as provided in subsection (a) above, shall
9 file reports and statements with the Secretary of State.

10 "(c) In the case of candidates for a municipal
11 office where the municipality is located in more than one
12 county, the statements and reports shall be filed in the
13 county where the city hall of the municipality is located. The
14 judge of probate of the county where the report is filed, if
15 the municipality is located in more than one county, shall
16 provide a copy of the report to the judge of probate of the
17 other county or counties where the municipality is located.

18 "(d) Commencing with the 2014 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, may choose instead to file electronically
22 with the Secretary of State pursuant to this chapter. Any such
23 principal campaign committee or political action committee
24 that chooses to file electronically with the Secretary of
25 State shall first provide notice to the appropriate judge of
26 probate, in a manner prescribed by the judge of probate,
27 indicating that choice and shall continue to file

1 electronically with the Secretary of State until terminated or
2 dissolved pursuant to this chapter.

3 "(e) Commencing with the 2018 election cycle, all
4 principal campaign committees and political action committees
5 that file with the judge of probate, other than candidates for
6 municipal office, shall file electronically with the Secretary
7 of State pursuant to this chapter.

8 "§17-5-10.

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

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

21 "§17-5-19.

22 "(a) Except as otherwise provided in this section, a
23 person who intentionally violates any provision of this
24 chapter shall be guilty, upon conviction, of a Class A
25 misdemeanor.

26 "(b) A person who intentionally violates any
27 reporting requirement of Sections 17-5-4, 17-5-5, or 17-5-8

1 shall be guilty, upon conviction, of a Class A misdemeanor. A
2 person's failure to promptly file a required report upon
3 discovering or receiving notice from any person that the
4 report has not been filed, or the failure to promptly correct
5 an omission, error, or other discrepancy in a filed report
6 upon discovering or receiving notice of the discrepancy, shall
7 create a rebuttable presumption of intent to violate the
8 applicable reporting requirement.

9 "(c) Any person who intentionally violates Section
10 17-5-7 shall be guilty, upon conviction, of a Class B felony.

11 ~~"(d) A person who fails to timely or accurately file
12 any report required by this chapter shall be assessed a civil
13 penalty of the greater of three hundred dollars (\$300) or ten
14 percent of the amount not properly reported for a first
15 offense in an election cycle, six hundred dollars (\$600) or 15
16 percent of the amount not properly reported for a second
17 offense in an election cycle, and one thousand two hundred
18 dollars (\$1,200) or 20 percent of the amount not properly
19 reported for a third or subsequent offense in an election
20 cycle. A fourth failure to timely or accurately file a report
21 in an election cycle shall create a rebuttable presumption of
22 intent to violate the reporting requirements of this chapter.
23 Civil penalties shall be paid to the appropriate filing
24 official. All penalties collected by a judge of probate shall
25 be distributed to that county's general fund, and all
26 penalties collected by the Secretary of State shall be
27 distributed to the State General Fund. A person who~~

1 voluntarily files an amended report to correct an error in an
2 otherwise timely filed report, without being prompted by a
3 filing official shall not be subjected to a civil penalty
4 under this subsection, so long as, in the case of a candidate,
5 the corrected report is filed prior to the election at issue,
6 and so long as, in the case of a political action committee,
7 the corrected report is filed prior to the election which the
8 contribution was given to influence.

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

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

23 "§36-25-14.

24 "(a) A statement of economic interests shall be
25 completed and filed in accordance with this chapter with the
26 commission no later than April 30 of each year covering the

1 period of the preceding calendar year by each of the
2 following:

3 "(1) All elected public officials at the state,
4 county, or municipal level of government or their
5 instrumentalities.

6 "(2) Any person appointed as a public official and
7 any person employed as a public employee at the state, county,
8 or municipal level of government or their instrumentalities
9 who occupies a position whose base pay is seventy-five
10 thousand dollars (\$75,000) or more annually, as adjusted by
11 the commission by January 31 of each year to reflect changes
12 in the U.S. Department of Labor's Consumer Price Index, or a
13 successor index.

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

21 "(4) Members of the Alabama Ethics Commission;
22 appointed members of boards and commissions having statewide
23 jurisdiction (but excluding members of solely advisory
24 boards).

25 "(5) All full-time nonmerit employees, other than
26 those employed in maintenance, clerical, secretarial, or other
27 similar positions.

- 1 "(6) Chief clerks and chief managers.
- 2 "(7) Chief county clerks and chief county managers.
- 3 "(8) Chief administrators.
- 4 "(9) Chief county administrators.
- 5 "(10) Any public official or public employee whose
6 primary duty is to invest public funds.
- 7 "(11) Chief administrative officers of any political
8 subdivision.
- 9 "(12) Chief and assistant county building
10 inspectors.
- 11 "(13) Any county or municipal administrator with
12 power to grant or deny land development permits.
- 13 "(14) Chief municipal clerks.
- 14 "(15) Chiefs of police.
- 15 "(16) Fire chiefs.
- 16 "(17) City and county school superintendents and
17 school board members.
- 18 "(18) City and county school principals or
19 administrators.
- 20 "(19) Purchasing or procurement agents having the
21 authority to make any purchase.
- 22 "(20) Directors and assistant directors of state
23 agencies.
- 24 "(21) Chief financial and accounting directors.
- 25 "(22) Chief grant coordinators.
- 26 "(23) Each employee of the Legislature or of
27 agencies, including temporary committees and commissions

1 established by the Legislature, other than those employed in
2 maintenance, clerical, secretarial, or similar positions.

3 "(24) Each employee of the Judicial Branch of
4 government, including active supernumerary district attorneys
5 and judges, other than those employed in maintenance,
6 clerical, secretarial, or other similar positions.

7 "(25) Every full-time public employee serving as a
8 supervisor.

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

1 economic interests. The statement shall contain the following
2 information on the person making the filing:

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

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

14 "(3) A listing of total combined household income of
15 the public official or public employee during the most recent
16 reporting year as to income from salaries, fees, dividends,
17 profits, commissions, and other compensation and listing the
18 names of each business and the income derived from such
19 business in the following categorical amounts: less than one
20 thousand dollars (\$1,000); at least one thousand dollars
21 (\$1,000) and less than ten thousand dollars (\$10,000); at
22 least ten thousand dollars (\$10,000) and less than fifty
23 thousand dollars (\$50,000); at least fifty thousand dollars
24 (\$50,000) and less than one hundred fifty thousand dollars
25 (\$150,000); at least one hundred fifty thousand dollars
26 (\$150,000) and less than two hundred fifty thousand dollars
27 (\$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,
26 life insurance companies, casualty insurance companies, other
27 insurance companies, retail companies, beer, wine or liquor

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

20 "(5) If retainers are in existence or contracted for
21 in any of the above categories of clients, a listing of the
22 categories along with the anticipated income to be expected
23 annually from each category of clients shall be shown in the
24 following categorical amounts: Less than one thousand dollars
25 (\$1,000); at least one thousand dollars (\$1,000) and less than
26 five thousand dollars (\$5,000); or at least five thousand
27 dollars (\$5,000) or more.

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

20 "(7) A listing of indebtedness to businesses
21 operating in Alabama showing types and number of each as
22 follows: Banks, savings and loan associations, insurance
23 companies, mortgage firms, stockbrokers and brokerages or bond
24 firms; and the indebtedness to combined organizations in the
25 following categorical amounts: Less than twenty-five thousand
26 dollars (\$25,000); twenty-five thousand dollars (\$25,000) and
27 less than fifty thousand dollars (\$50,000); fifty thousand

1 dollars (\$50,000) and less than one hundred thousand dollars
2 (\$100,000); one hundred thousand dollars (\$100,000) and less
3 than one hundred fifty thousand dollars (\$150,000); one
4 hundred fifty thousand dollars (\$150,000) and less than two
5 hundred fifty thousand dollars (\$250,000); two hundred fifty
6 thousand dollars (\$250,000) or more. The commission may add
7 additional business to this listing. Indebtedness associated
8 with the homestead of the person filing is exempted from this
9 disclosure requirement.

10 "(c) Filing required by this section shall reflect
11 information and facts in existence at the end of the reporting
12 year.

13 "(d) If the information required herein is not filed
14 as required, the commission shall notify the public official
15 or public employee concerned as to his or her failure to so
16 file and the public official or public employee shall have 10
17 days to file the report after receipt of the notification. The
18 commission may, in its discretion, assess a fine of ten
19 dollars (\$10) a day, not to exceed one thousand dollars
20 (\$1,000), for failure to file timely.

21 "(e) A person who intentionally violates any
22 financial disclosure filing requirement of this chapter shall
23 be subject to administrative fines imposed by the commission,
24 or shall, upon conviction, be guilty of a Class A misdemeanor,
25 or both.

26 "Any person who unintentionally neglects to include
27 any information relating to the financial disclosure filing

1 requirements of this chapter shall have 90 days to file an
2 amended statement of economic interests without penalty.

3 "§36-25-15.

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

19 "(b) Each election official who receives a
20 declaration of candidacy or petition to appear on the ballot
21 for election from a candidate and each ~~official~~ party
22 chairperson who nominates a person to serve as a public
23 official shall, within five days of the receipt or nomination,
24 notify the commission of the name of the candidate, as defined
25 in this chapter, and the date on which the person became a
26 candidate or was nominated as a public official. The
27 commission shall, within five business days of receipt of such

1 notification, notify the official whether the candidate has
2 complied with the provisions of this section.

3 "(c) Other provisions of the law notwithstanding, if
4 a candidate does not submit a statement of economic interests
5 in accordance with the requirements of this chapter, the name
6 of the person shall not appear on the ballot and the candidate
7 shall be deemed not qualified as a candidate in that election.
8 Notwithstanding the foregoing, the commission may, for good
9 cause shown, allow the candidate an additional five days to
10 file such statement of economic interests. If a candidate is
11 deemed not qualified, the appropriate election official shall
12 remove the name of the candidate from the ballot."

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

16 §17-5-7.2. Disposal of campaign property.

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

25 (b) Property purchased by or contributed to a
26 principal campaign committee that can be used by the person in
27 the performance of his or her duties of the office he or she

1 was elected to hold need not be liquidated as long as he or
2 she holds office.

3 §17-5-19.1. Civil penalties.

4 (a) The appropriate election official, based on the
5 location of filing as required by Section 17-5-9, shall levy
6 an administrative penalty against any person who fails to
7 timely file a report required by this chapter and who does not
8 remedy the filing of the report pursuant to subsection (h).
9 The Campaign Finance Commission shall have the authority to
10 levy an administrative penalty against any person who files a
11 materially inaccurate report required by this chapter and who
12 does not remedy the filing of the report pursuant to
13 subsection (g).

14 (b) The schedule of civil penalties shall be as
15 follows:

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

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

22 (3) The lesser of one thousand two hundred dollars
23 (\$1,200) or 20 percent of the amount of contributions or
24 expenditures not properly reported for a third or subsequent
25 offense in an election cycle.

26 (c) A fourth failure to timely or accurately file a
27 report in an election cycle shall create a rebuttable

1 presumption of intent to violate the reporting requirements of
2 this chapter. The Secretary of State or judge of probate, as
3 appropriate based on the location of filing, shall notify the
4 Attorney General and the appropriate district attorney of all
5 persons who violate the filing requirements four or more times
6 in an election cycle.

7 (d) Upon imposition of a civil penalty pursuant to
8 this section, the appropriate filing official shall send the
9 person upon whom the penalty is being imposed proper
10 notification by certified mail of the imposition of the
11 penalty. If an electronic mail address is on file with the
12 Secretary of State, the Secretary of State shall also provide
13 such notification by electronic mail.

14 (e) Civil penalties levied shall be paid to the
15 appropriate filing official within 45 days of the finality of
16 any review. The Secretary of State or judge of probate,
17 through his or her attorney, may institute proceedings to
18 recover any penalties ordered pursuant to this section that
19 are not paid by, or on behalf of, the person against whom they
20 are levied and may collect necessary fees and costs associated
21 with the collection action.

22 (f) All penalties collected by a judge of probate
23 shall be distributed to that county's general fund, and all
24 penalties collected by the Secretary of State shall be
25 distributed to the State General Fund.

26 (g) A person who voluntarily files an amended report
27 to correct an error in an otherwise timely filed report

1 without being prompted by a filing official shall not have
2 committed an offense or be subjected to a civil penalty under
3 this subsection, so long as, in the case of a candidate, the
4 corrected report is filed prior to the election at issue, and
5 so long as, in the case of a political action committee, the
6 corrected report is filed prior to the close of the calendar
7 year.

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

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

16 §17-5-19.2. Administrative review.

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

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

4 (c) Any review of the decision of the commission
5 shall comply with the Alabama Administrative Procedure Act.

6 §17-5-21. Administrative rules.

7 The Secretary of State is authorized to promulgate
8 administrative rules pursuant to the Alabama Administrative
9 Procedure Act as necessary to implement and administer the
10 Alabama Fair Campaign Practices Act.

11 §36-14-18.

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

15 (1) Maintain a system for the electronic filing of
16 campaign finance reports.

17 (2) Levy and collect civil penalties for failure to
18 file timely reports.

19 (3) Work cooperatively with the State Campaign
20 Finance Commission to fully implement and enforce all campaign
21 finance laws.

22 Section 4. A new Article 2, consisting of Sections
23 17-5-30 to 17-5-35, inclusive, is added to Title 15, Chapter 5
24 of the Code of Alabama 1975, to read as follows:

25 ARTICLE 2. State Campaign Finance Commission.

26 §17-5-30. Campaign finance commission generally.

1 (a) There is created a State Campaign Finance
2 Commission composed of five members, each of whom shall be a
3 qualified elector in the state.

4 (b) Subject to subsection (c), membership of the
5 commission shall be appointed as follows:

6 (1) Two appointed by the Governor, one of whom shall
7 be a former public official who has served at least two terms
8 in an elected state office and one of whom shall be a former
9 public official who has served at least two terms in an
10 elected local office.

11 (2) One appointed by the Secretary of State.

12 (3) One appointed by the President Pro Tempore of
13 the Senate.

14 (4) One appointed by the Speaker of the House of
15 Representatives.

16 (c) The following persons are not eligible to serve
17 as members:

18 (1) A current public official.

19 (2) A candidate for public office.

20 (3) A current public employee.

21 (4) A registered lobbyist.

22 (d) The term of office for members shall be five
23 years except that the initial terms of office shall be as
24 follows: One year for the first appointee of the Governor;
25 five years for the second appointee of the Governor; two years
26 for the appointee of the Secretary of State; three years for
27 the appointee of the President Pro Tempore of the Senate; and

1 four years for the appointee of the Speaker of the House of
2 Representatives. Membership shall be inclusive and reflect the
3 racial, gender, geographic, urban/rural, and economic
4 diversity of the state. Members shall assume their duties upon
5 confirmation of the Senate and shall continue to serve until
6 their successors are confirmed. Members shall elect from among
7 themselves one member to serve as chair and one member to
8 serve as vice chair. Any vacancy on the commission shall be
9 filled by the appropriate appointing authority to complete the
10 remainder of the term. No member of the commission is eligible
11 for reappointment after serving two full five-year terms.
12 Absent an excuse of extraordinary circumstances, as determined
13 by the remaining members of the commission, a member who fails
14 to attend three consecutive meetings shall vacate his or her
15 position.

16 (e) While serving on the commission, members are
17 entitled to actual travel expenses incurred in the performance
18 of their duties, as state employees are paid, when approved by
19 the chair. Members shall not be entitled to any other
20 compensation for their service on the commission.

21 §17-5-31. Commission staff.

22 The commission shall be staffed by the staff of the
23 State Ethics Commission. The staff of the State Ethics
24 Commission may not receive any additional remuneration for
25 performing the duties required by the commission.

26 §17-5-32. Functions of the commission.

1 The commission shall work with the Secretary of
2 State to implement the reporting requirements of this chapter
3 and is authorized to do the following:

4 (1) Approve all forms required by the Fair Campaign
5 Practices Act.

6 (2) Suggest accounting methods for candidates,
7 principal campaign committees, and political action committees
8 in connection with reports and filings required by the Fair
9 Campaign Practices Act.

10 (3) Approve a retention policy for all reports,
11 filings, and underlying documentation required by the Fair
12 Campaign Practices Act.

13 (4) Approve a manual for all candidates, principal
14 campaign committees, and political action committees,
15 describing the requirements of the Fair Campaign Practices Act
16 that shall be published by the Secretary of State.

17 (5) Investigate and hold hearings for receiving
18 evidence regarding alleged violations of the Fair Campaign
19 Practices Act.

20 (6) Conduct audits of any filings required under the
21 Fair Campaign Practices Act.

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

24 (8) Refer all evidence and information necessary to
25 the Attorney General or appropriate district attorney for
26 prosecution of any criminal violation of the Fair Campaign
27 Practices Act.

1 (9) Promulgate any rules necessary for the
2 implementation of this chapter through the Alabama
3 Administrative Procedure Act.

4 §17-5-33. Procedures for investigation of
5 complaints.

6 (a) (1) Except as necessary to allow the sharing of
7 information and evidence with the Attorney General or a
8 district attorney, a complaint filed pursuant to this chapter,
9 together with any statement, evidence, or information received
10 from the complainant, witnesses, or other persons shall be
11 protected by and subject to the same restrictions relating to
12 secrecy and nondisclosure of information, conversation,
13 knowledge, or evidence as provided in Sections 12-16-214 to
14 12-16-216, inclusive. Such restrictions shall apply to all
15 investigatory activities taken by the Director of the State
16 Ethics Commission, the commission, or a member thereof, staff,
17 employees, or any person engaged by the commission in response
18 to a complaint filed with the commission and to all
19 proceedings relating thereto before the commission. Such
20 restrictions shall also apply to all information and evidence
21 supplied to the Attorney General or a district attorney.

22 (2) A violation of this subsection shall constitute
23 a Class C felony.

24 (b) The commission may not take any investigatory
25 action on a telephonic or written complaint against a
26 respondent so long as the complainant remains anonymous.
27 Investigatory action on a complaint from an identifiable

1 source may not be initiated until the true identity of the
2 source has been ascertained and written verification of such
3 ascertainment is in the commission's files. The complaint may
4 only be filed by a person who has or persons who have credible
5 and verifiable information supporting the allegations
6 contained in the complaint. A complainant may not file a
7 complaint against another person or persons in order to
8 circumvent this subsection. Prior to commencing any
9 investigation, the commission shall receive a written and
10 signed complaint which sets forth in detail the specific
11 charges against a respondent, and the factual allegations that
12 support such charges. The Director of the State Ethics
13 Commission shall conduct a preliminary inquiry in order to
14 make an initial determination that the complaint, on its face,
15 alleges fact which if true, would constitute a violation of
16 this chapter and that reasonable cause exists to conduct an
17 investigation. If the director determines that the complaint
18 does not allege a violation or that reasonable cause does not
19 exist, the charges shall be dismissed and the dismissal shall
20 be reported to the commission. The commission may authorize an
21 investigation upon written consent of four commission members,
22 upon an express finding that probable cause exists that a
23 violation or violations of this chapter have occurred. Upon
24 the commencement of any investigation, the Alabama Rules of
25 Criminal Procedure as applicable to the grand jury process
26 shall apply and remain in effect until the complaint is
27 dismissed or disposed of in some other manner.

1 (c) Not less than 45 days prior to any hearing
2 before the commission, the respondent shall be given notice
3 that a complaint has been filed against him or her and shall
4 be given a summary of the charges contained therein. Upon the
5 timely request of the respondent, a continuance of the hearing
6 for not less than 30 days shall be granted for good cause
7 shown. The respondent charged in the complaint shall have the
8 right to be represented by retained legal counsel. The
9 commission may not require the respondent to be a witness
10 against himself or herself.

11 (d) The commission shall provide discovery to the
12 respondent pursuant to the Alabama Rules of Criminal
13 Procedure.

14 (e) (1) In the course of an investigation, the
15 commission may subpoena witnesses and compel their attendance
16 and may also require the production of books, papers,
17 documents, and other evidence. A subpoena may be issued only
18 upon the vote of four members of the commission or upon the
19 express written request of the Director of the State Ethics
20 Commission. The subpoena shall be subject to Rules 17.1, 17.2,
21 17.3, and 17.4 of the Alabama Rules of Criminal Procedure.
22 Upon seeking issuance of the subpoena, the commission shall
23 serve a notice to the recipient of the intent to serve such
24 subpoena, along with the proposed subpoena upon the expiration
25 of 10 days from the service of the notice. Any person or
26 entity served with a subpoena may serve an objection to the
27 issuance of the subpoena within 10 days from service of the

1 notice on the grounds set forth under subsection (c) of Rule
2 17.3 of the Alabama Rules of Criminal Procedure. If an
3 objection is made, the subpoena shall not issue unless an
4 order to dismiss, modify, or issue the subpoena is entered not
5 more than 30 days after the objection was made by a state
6 court of proper jurisdiction. If any person fails to comply
7 with any subpoena lawfully issued, or if any witness refuses
8 to produce evidence or to testify as to any matter relevant to
9 the investigation, it shall be the duty of any court of
10 competent jurisdiction or the judge thereof, upon the
11 application of the Director of the State Ethics Commission, to
12 compel obedience upon penalty for contempt, as in the case of
13 disobedience of a subpoena issued for such court or a refusal
14 to testify therein.

15 (2) Any vote taken by the members of the commission
16 relative to the issuance of a subpoena shall be protected by
17 and subject to the restrictions relating to secrecy and
18 nondisclosure of information, conversation, knowledge, or
19 evidence as provided in Sections 12-16-214 to 12-16-216,
20 inclusive.

21 (f) Not more than 180 days after receiving or
22 initiating a complaint, the commission shall determine whether
23 probable cause exists. At the expiration of the 180-day
24 period, if the commission does not find probable cause, the
25 complaint shall be deemed dismissed and may not be reinstated
26 based on the same facts alleged in the complaint. Upon good
27 cause shown from the general counsel and chief investigator of

1 the State Ethics Commission, the Director of the State Ethics
2 Commission may request from the commission a one-time
3 extension of 180 days. Upon a majority vote of the commission,
4 the staff may be granted the 180-day extension in which to
5 complete the investigation. If the commission finds probable
6 cause that a person covered by this chapter has violated it,
7 the case and the commission's findings shall be forwarded to
8 the district attorney for the jurisdiction in which the
9 alleged acts occurred or to the Attorney General. The case,
10 along with the commission's findings, shall be referred for
11 appropriate legal action.

12 (g) Not more than 180 days after receiving a case
13 referred by the commission, the Attorney General or district
14 attorney to whom the case was referred may, upon written
15 request of the commission, notify the commission, in writing,
16 stating whether he or she intends to take action against the
17 respondent, including an administrative disposition or
18 settlement, conduct further investigation, or close the case
19 without taking action. If the Attorney General or district
20 attorney decides to pursue the case, he or she, upon written
21 request of the commission, may inform the commission of the
22 final disposition of the case. The written information
23 pursuant to this section shall be maintained by the commission
24 and made available upon request as a public record. The
25 director may request an oral status update from the Attorney
26 General or district attorney from time to time.

27 §17-5-34. Advisory opinions.

1 The commission shall issue and publish advisory
2 opinions on the requirements of this chapter, based on a real
3 or hypothetical set of circumstances. Such advisory opinions
4 shall be adopted by the majority vote of the members of the
5 commission present and shall be effective and deemed valid
6 until expressly overruled or altered by the commission or a
7 court of competent jurisdiction or until the statutory basis
8 for the opinion is amended. The written advisory opinions of
9 the commission shall protect the person at whose request the
10 opinion was issued and any other person reasonably relying, in
11 good faith, on the advisory opinion in a materially like
12 circumstance from liability to the state because of any action
13 performed or action refrained from in reliance of the advisory
14 opinion. Nothing in this section shall be deemed to protect
15 any person relying on the advisory opinion if the reliance is
16 not in good faith, is not reasonable, or is not in a
17 materially like circumstance.

18 §17-5-35. Political activities prohibited.

19 No member or employee of the commission shall
20 participate in any political campaign, including making a
21 contribution to a candidate, principal campaign committee, or
22 political action committee during the member's term of office
23 or employee's term of employment.

24 Section 5. Although this bill would have as its
25 purpose or effect the requirement of a new or increased
26 expenditure of local funds, the bill is excluded from further
27 requirements and application under Amendment 621, now

1 appearing as Section 111.05 of the Official ReCompilation of
2 the Constitution of Alabama of 1901, as amended, because the
3 bill defines a new crime or amends the definition of an
4 existing crime.

5 Section 6. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.