SB241

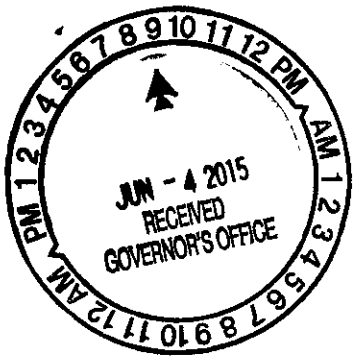
167148-5

By Senator Orr

RFD: Constitution, Ethics and Elections

First Read: 17-MAR-15

ACT No. 2015-495



SB241

ENROLLED, An Act,

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

of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§17-5-2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"a. The following shall be considered expenditures:

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

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

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

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

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

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

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

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

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

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

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

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

"c. For purposes of reporting expenditures as required by this chapter, the date an expenditure is made is

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§17-5-4.

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

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

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

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

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

"§17-5-5.

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

"(b) The statement of organization shall include:

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

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

"(3) The purposes of the committee.

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

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

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

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

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

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

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

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

"§17-5-6.

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

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

"§17-5-7.

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

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

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

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

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

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

"(5) Inaugural or transitional expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§17-5-8.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§17-5-9.

"(a) All statements and reports, including amendments, required of principal campaign committees under the provisions of this chapter shall be filed with the Secretary of State in the case of candidates for state office or state elected officials, and in the case of candidates for local office or local elected officials, with the judge of probate of the county in which the office is sought <u>for the 2016 election cycle</u>.

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

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

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

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

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

"§17-5-10.

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

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

"§17-5-19.

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

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

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

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

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

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

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

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

"§36-25-3.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§36-25-4.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"§36-25-14.

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

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

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

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

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

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

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

"(6) Chief clerks and chief managers.

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

"(8) Chief administrators.

"(9) Chief county administrators.

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

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

"(12) Chief and assistant county building inspectors.

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

"(14) Chief municipal clerks.

"(15) Chiefs of police.

"(16) Fire chiefs.

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

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

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

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

"(21) Chief financial and accounting directors.

"(22) Chief grant coordinators.

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

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

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

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

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

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

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

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

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

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

life insurance companies, casualty insurance companies, other insurance companies, retail companies, beer, wine or liquor companies or distributors, or combination thereof, trade associations, professional associations, governmental associations, associations of public employees or public officials, counties, and any other businesses or associations that the commission may deem appropriate. Amounts received from combined clients in each category shall be reported in the following categorical amounts: Less than one thousand dollars ($1,000); more than one thousand dollars ($1,000) and less than ten thousand dollars ($10,000); at least ten thousand dollars ($10,000) and less than twenty-five thousand dollars ($25,000); at least twenty-five thousand dollars ($25,000) and less than fifty thousand dollars ($50,000); at least fifty thousand dollars ($50,000) and less than one hundred thousand dollars ($100,000); at least one hundred thousand dollars ($100,000) and less than one hundred fifty thousand dollars ($150,000); at least one hundred fifty thousand dollars ($150,000) and less than two hundred fifty thousand dollars ($250,000); or at least two hundred fifty thousand dollars ($250,000) or more.

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

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

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

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

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

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

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

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

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

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

"§36-25-15.

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

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

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

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

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

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

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

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

§17-5-19.1. Civil penalties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§17-5-19.2. Administrative review.

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

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

§17-5-21. Administrative rules.

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

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

§36-14-18.

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

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

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

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

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

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

Kay Ivey

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

APPROVED 6-12-2015

TIME 900 AM

Robert Bentley

GOVERNOR

Alabama Secretary Of State

Act Num....: 2015-495
Bill Num...: S-241

Recv'd 06/12/15 10:57amSLF

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1 Orr

CO-SPONSORS

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SENATE ACTION

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill. SB 241

yeas 30 nays 0 abstain 0

PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill. SB _____ as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE

Senate Conferees _____

HOUSE ACTION

DATE: 5-19 20[1]7

RD 1 RFD E+CF

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on Ethics + Campaign was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed w/amend(s) w/sub

This 21st day of May 2015.

_____, Chairperson

DATE: 5-21 20[1]

RF RD 2 C[illegible]

DATE: 20[illegible]

RE-REFERRED RE-COMMITTED

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill. SB 241

YEAS 97 NAYS 0

JEFF WOODARD,
Clerk

FURTHER HOUSE ACTION (OVER)