

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

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to campaign financing; to amend Sections
12 17-5-2, 17-5-4, 17-5-5, 17-5-6, 17-5-7, 17-5-8, 17-5-9,
13 17-5-10, 17-5-19, 36-25-3, 36-25-4, 36-25-14, and 36-25-15,
14 Code of Alabama 1975; to add Sections 17-5-7.2, 17-5-19.1,
15 17-5-19.2, 17-5-21, and 36-14-18 to the Code of Alabama 1975;
16 to clarify when campaign contributions and expenditures are
17 made and would clarify the disposition of a campaign committee
18 and its assets upon its dissolution or termination; to clarify
19 that legal costs associated with a civil action, criminal
20 prosecution, or investigation reasonably related to the
21 performance of duties may be paid using campaign funds; to
22 decrease the civil penalties for failure to properly report
23 contributions or expenditures; to provide for the payment of
24 civil penalties using campaign funds; and to authorize the
25 State Ethics 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. Sections 17-5-2, 17-5-4, 17-5-5, 17-5-6,
10 17-5-7, 17-5-8, 17-5-9, 17-5-10, 17-5-19, 36-25-3, 35-25-4,
11 36-25-14, and 36-25-15, Code of Alabama 1975, are amended to
12 read as follows:

13 "§17-5-2.

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

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

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

26 "b. Received contributions or made expenditures in
27 excess of one thousand dollars (\$1,000), or given his or her

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

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

7 ~~"(2)~~ (3) CONTRIBUTION.

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

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

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

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

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

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

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

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

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

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

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

25 "5. The payment by a state or local committee of a
26 political party of the cost of preparation, display, or
27 mailing or other distribution incurred by the committee with

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

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

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

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

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

24 "~~(3)~~ (4) DESIGNATED FILING AGENT. An individual
25 appointed and authorized as attorney in fact to electronically
26 submit any report or other filing required by this chapter on

1 behalf of a candidate, his or her principal campaign
2 committee, or a political action committee.

3 "~~(4)~~ (5) ELECTION. Unless otherwise specified, any
4 general, special, primary, or runoff election, or any
5 convention or caucus of a political party held to nominate a
6 candidate, or any election at which a constitutional amendment
7 or other proposition is submitted to the popular vote.

8 "~~(5)~~ (6) ELECTIONEERING COMMUNICATION. Any
9 communication disseminated through any federally regulated
10 broadcast media, any mailing, or other distribution,
11 electronic communication, phone bank, or publication which (i)
12 contains the name or image of a candidate; (ii) is made within
13 120 days of an election in which the candidate will appear on
14 the ballot; (iii) the only reasonable conclusion to be drawn
15 from the presentation and content of the communication is that
16 it is intended to influence the outcome of an election; and
17 (iv) entails an expenditure in excess of one thousand dollars
18 (\$1,000).

19 "~~(6)~~ (7) EXPENDITURE.

20 "a. The following shall be considered expenditures:

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

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

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

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

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

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

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

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

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

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

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

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

15 "c. For purposes of reporting expenditures as
16 required by this chapter, the date an expenditure is made is
17 the date the instrument authorizes the expenditure. In the
18 case of an expenditure made by check or electronic payment,
19 the date of expenditure is the date of the check or electronic
20 payment.

21 "~~(7)~~ (8) IDENTIFICATION. The full name and complete
22 address.

23 "~~(8)~~ (9) LOAN. A transfer of money, property, or
24 anything of value in consideration of a promise or obligation,
25 conditional or not, to repay in whole or part.

26 "~~(9)~~ (10) LOCAL OFFICE. Any office under the
27 constitution and laws of the state, except circuit, district,

1 or legislative offices, filled by election of the registered
2 voters of a single county or municipality, or by the voters of
3 a division contained within a county or municipality.

4 "~~(10)~~ (11) PERSON. An individual, partnership,
5 committee, association, corporation, labor organization, or
6 any other organization or group of persons.

7 "~~(11)~~ (12) PERSONAL AND LEGISLATIVE LIVING EXPENSES.
8 Household supplies, personal clothing, tuition payments,
9 mortgage, rent, or utility payments for a personal residence;
10 admission to an entertainment event or fees for a country club
11 or social club, unless tied to a specific campaign event or
12 functions involving constituents; and any other expense,
13 excluding food and beverages, that would exist irrespective of
14 the candidate's campaign or duties as a legislator. Personal
15 and legislative living expenses shall not include expenses for
16 food, beverages, travel, or communications incurred by the
17 legislator in the performance of the office held.

18 "~~(12)~~ (13) POLITICAL ACTION COMMITTEE. Any
19 committee, club, association, political party, or other group
20 of one or more persons, whether in-state or out-of-state,
21 which receives or anticipates receiving contributions and
22 makes or anticipates making expenditures to or on behalf of
23 any Alabama state or local elected official, proposition,
24 candidate, principal campaign committee or other political
25 action committee. For the purposes of this chapter, a person
26 who makes a political contribution shall not be considered a

1 political action committee by virtue of making such
2 contribution.

3 ~~"(13)~~ (14) POLITICAL PARTY. A political party as
4 defined in Section 17-13-40.

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

11 ~~"(15)~~ (16) PROPOSITION. Any proposal for submission
12 to the general public for its approval or rejection, including
13 proposed as well as qualified ballot questions.

14 ~~"(16)~~ (17) PUBLIC OFFICIAL. Any person elected to
15 public office, whether or not that person has taken office, by
16 the vote of the people at the state, county, or municipal
17 level of government or their instrumentalities, including
18 governmental corporations, and any person appointed to a
19 position at the state, county, or municipal level of
20 government or their instrumentalities, including governmental
21 corporations. For purposes of this chapter, a public official
22 includes the chairs and vice chairs or the equivalent offices
23 of each state political party as defined in Section 17-13-40.

24 ~~"(17)~~ (18) STATE. The State of Alabama.

25 ~~"(18)~~ (19) STATE OFFICE. All offices under the
26 constitution and laws of the state filled by election of the

1 registered voters of the state or of any circuit or district
2 and shall include legislative offices.

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

6 "§17-5-4.

7 "(a) Within five days after any person becomes a
8 candidate for office, such person shall file with the
9 Secretary of State or judge of probate, as provided in Section
10 17-5-9, a statement showing the name of not less than two nor
11 more than five persons elected to serve as the principal
12 campaign committee for such candidate, together with a written
13 acceptance or consent by such committee, but any candidate may
14 declare himself or herself as the person chosen to serve as
15 the principal campaign committee, in which case such candidate
16 shall perform the duties of chair and treasurer of such
17 committee prescribed by this chapter.

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

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

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

15 "§17-5-5.

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

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

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

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

5 "(3) The purposes of the committee.

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

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

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

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

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

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

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

24 "§17-5-6.

25 "A political action committee and a principal
26 campaign committee shall maintain a checking account, money
27 market account, or other similar banking account and shall

1 deposit any contributions received by such committee into such
2 account. No expenditure of funds may be made by any such
3 committee except by check drawn on such account, electronic
4 transfer from such account, a credit card the balance of which
5 is paid from such account, or out of a petty cash fund from
6 which it may make expenditures not in excess of one hundred
7 dollars (\$100) to any person in connection with a single
8 purchase or transaction.

9 "§17-5-7.

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

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

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

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

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

7 "(5) Inaugural or transitional expenses.

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

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

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

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

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

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

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

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

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

23 "(1) As a bribe, as defined by Sections 13A-10-60 to
24 13A-10-63, inclusive.

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

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

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

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

14 "§17-5-8.

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

22 "(1) Beginning after the 2012 election cycle,
23 regardless of whether a candidate has opposition in any
24 election, monthly reports not later than the second business
25 day of the subsequent month, beginning 12 months before the
26 date of any primary, special, runoff, or general election for
27 which a political action committee or principal campaign

1 committee receives contributions or makes expenditures with a
2 view toward influencing such election's result. A monthly
3 report shall include all reportable transactions for the
4 previous full month period. Reports shall be required as
5 provided in subdivisions (2) and (3).

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

11 "(3)a. In addition to the reporting dates specified
12 in subdivisions (1) and (2), reports required to be filed with
13 the Secretary of State shall be filed with the Secretary of
14 State on the eighth, seventh, sixth, fifth, fourth, third, and
15 second day preceding a legislative, state school board, or
16 other statewide primary, special, runoff, or general election,
17 and by 12:01 p.m. on the day preceding a legislative, state
18 school board, or statewide, primary, special, runoff, or
19 general election if any principal campaign committee or
20 political action committee receives or spends in the aggregate
21 five thousand dollars (\$5,000) or more on ~~any~~ that day with a
22 view toward influencing an election's results. If a daily
23 report is required pursuant to this subdivision, the report
24 shall include all reportable activity occurring on the day of
25 the report as well as all reportable activity that has
26 occurred on each day since the most recent prior report.
27 Principal campaign committees and political action committees

1 that are exempt from electronic filing and principal campaign
2 committees and political action committees required to make
3 daily reports pursuant to this subdivision for the 2012
4 election cycle may file reports by facsimile (FAX)
5 transmission provided they keep proper documentation in their
6 office.

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

14 "(b) Except as provided in subsection (k), each
15 principal campaign committee, political action committee, and
16 elected state and local official covered under the provisions
17 of this chapter who has not closed his or her principal
18 campaign committee, shall annually file with the Secretary of
19 State or judge of probate, as designated in Section 17-5-9,
20 reports of contributions and expenditures made during that
21 year. No annual report is required to be filed by a person who
22 holds office because he or she was appointed to serve the
23 remainder of a term vacated by another person, until the
24 person serving has created a principal campaign committee. The
25 annual reports required under this subsection shall be made on
26 or before January 31 of the succeeding year.

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

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

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

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

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

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

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

25 "(7) The identification of each person to whom
26 expenditures have been made by or on behalf of such committee
27 or elected official within the calendar year in an aggregate

1 amount greater than one hundred dollars (\$100), the amount,
2 date, and purpose of each such expenditure, and, if
3 applicable, the designation of each constitutional amendment
4 or other proposition with respect to which an expenditure was
5 made.

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

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

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

19 "(d) Each report required by this section shall be
20 signed and filed by the elected official or on behalf of the
21 political action committee by its chair or treasurer and, if
22 filed on behalf of a principal campaign committee, by the
23 candidate represented by such committee. There shall be
24 attached to each such report an affidavit subscribed and sworn
25 to by the official or chair or treasurer and, if filed by a
26 principal campaign committee, the candidate represented by
27 such committee, setting forth in substance that such report is

1 to the best of his or her knowledge and belief in all respects
2 true and complete, and, if made by a candidate, that he or she
3 has not received any contributions or made any expenditures
4 which are not set forth and covered by such report.

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

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

19 "(g) Electronic filing of reports shall not apply to
20 any campaign, principal campaign committee, or political
21 action committee receiving ~~ten~~ five thousand dollars ~~(\$10,000)~~
22 (\$5,000) or less per election cycle.

23 "(h) In connection with any electioneering
24 communication paid for by a person, nonprofit corporation,
25 entity, principal campaign committee, or other political
26 committee or entity, the payor shall disclose its
27 contributions and expenditures in accordance with this

1 section. The disclosure shall be made in the same form and at
2 the same time as is required of political action committees in
3 this section; provided, however, no duplicate reporting shall
4 be required by a political committee.

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

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

23 "(k) Each report required by this section shall
24 include all reportable transactions occurring since the most
25 recent prior report; however, duplicate reporting is not
26 required by this section. A political action committee or
27 principal campaign committee that is required to file a daily

1 report is not required to also file a weekly report for the
2 week preceding an election specified in subdivision (3) of
3 subsection (a); a committee required to file a weekly report
4 is not required to also file a monthly report in the month in
5 which the election is held; and a committee required to file a
6 monthly report is not required to also file an annual report
7 in the year in which the election is held. The monetary
8 balance in a report of each committee shall begin at the
9 monetary amount appearing in the most recent prior report.

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

14 "§17-5-9.

15 "(a) All statements and reports, including
16 amendments, required of principal campaign committees under
17 the provisions of this chapter shall be filed with the
18 Secretary of State in the case of candidates for state office
19 or state elected officials, and in the case of candidates for
20 local office or local elected officials, with the judge of
21 probate of the county in which the office is sought for the
22 2016 election cycle.

23 "(b) Political action committees, which seek to
24 influence an election for local office or to influence a
25 proposition regarding a single county, shall file all reports
26 and statements, including amendments, with the judge of
27 probate of the county affected. All other political action

1 committees, except as provided in subsection (a) above, shall
2 file reports and statements with the Secretary of State.

3 "(c) In the case of candidates for a municipal
4 office where the municipality is located in more than one
5 county, the statements and reports shall be filed in the
6 county where the city hall of the municipality is located. The
7 judge of probate of the county where the report is filed, if
8 the municipality is located in more than one county, shall
9 provide a copy of the report to the judge of probate of the
10 other county or counties where the municipality is located.

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

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

1 "§17-5-10.

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

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

14 "§17-5-19.

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

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

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

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

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

1 ~~the corrected report is filed prior to the election which the~~
2 ~~contribution was given to influence.~~

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

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

17 "§36-25-3.

18 "(a) There is hereby created a State Ethics
19 Commission composed of five members, each of whom shall be a
20 fair, equitable citizen of this state and of high moral
21 character and ability. The following persons shall not be
22 eligible to be appointed as members: (1) a public official;
23 (2) a candidate; (3) a registered lobbyist and his or her
24 principal; or (4) a former employee of the commission. No
25 member of the commission shall be eligible for reappointment
26 to succeed himself or herself. The members of the commission
27 shall be appointed by the following officers: The Governor,

1 the Lieutenant Governor, or in the absence of a Lieutenant
2 Governor, the Presiding Officer of the Senate, and the Speaker
3 of the House of Representatives. Appointments shall be subject
4 to Senate confirmation and persons appointed shall assume
5 their duties upon confirmation by the Senate. The members of
6 the first commission shall be appointed for terms of office
7 expiring one, two, three, four, and five years, respectively,
8 from September 1, 1975. Successors to the members of the first
9 commission shall serve for a term of five years beginning
10 service on September 1 of the year appointed and serving until
11 their successors are appointed and confirmed. If at any time
12 there should be a vacancy on the commission, a successor
13 member to serve for the unexpired term applicable to such
14 vacancy shall be appointed by the Governor. The commission
15 shall elect one member to serve as chair of the commission and
16 one member to serve as vice chair. The vice chair shall act as
17 chair in the absence or disability of the chair or in the
18 event of a vacancy in that office.

19 "Beginning with the first vacancy on the Ethics
20 Commission after October 1, 1995, if there is not a Black
21 member serving on the commission, that vacancy shall be filled
22 by a Black appointee. Any vacancy thereafter occurring on the
23 commission shall also be filled by a Black appointee if there
24 is no Black member serving on the commission at that time.

25 "Beginning with the first vacancy on the State
26 Ethics Commission after January 1, 2011, the commission shall

1 always have as a member a State of Alabama-licensed attorney
2 in good standing.

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

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

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

19 "(d) Members of the commission, while serving on the
20 business of the commission, shall be entitled to receive
21 compensation at the rate of fifty dollars (\$50) per day, and
22 each member shall be paid his or her travel expenses incurred
23 in the performance of his or her duties as a member of the
24 commission as other state employees and officials are paid
25 when approved by the chair. If for any reason a member of the
26 commission wishes not to claim and accept the compensation or
27 travel expenses, the member shall inform the director, in

1 writing, of the refusal. The member may at any time during his
2 or her term begin accepting compensation or travel expenses;
3 however, the member's refusal for any covered period shall act
4 as an irrevocable waiver for that period.

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

13 "(f) The commission shall appoint a full-time
14 director. Appointment of the director shall be subject to
15 Senate confirmation, and the person appointed shall assume his
16 or her duties upon confirmation by the Senate. If the Senate
17 fails to vote on an appointee's confirmation before adjourning
18 sine die during the session in which the director is
19 appointed, the appointee is deemed to be confirmed. No
20 appointee whose confirmation is rejected by the Senate may be
21 reappointed. The director shall serve at the pleasure of the
22 commission and shall appoint such other employees as needed.
23 All such employees, except the director, shall be employed
24 subject to the state Merit System law, and their compensation
25 shall be prescribed pursuant to that law. The employment of
26 attorneys shall be subject to subsection (h). The compensation
27 of the director shall be fixed by the commission, payable as

1 the salaries of other state employees. The director shall be
2 responsible for the administrative operations of the
3 commission and shall administer this chapter in accordance
4 with the commission's policies. No rule shall be implemented
5 by the director until adopted by the commission in accordance
6 with Sections 41-22-1 to 41-22-27, inclusive, the Alabama
7 Administrative Procedure Act.

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

16 "(h) The director, with the approval of the Attorney
17 General, may appoint ~~a~~ competent ~~attorney~~ attorneys as legal
18 counsel for the commission. ~~The legal counsel~~ Each attorney so
19 appointed shall be of good moral and ethical character,
20 licensed to practice law in this state, and be a member in
21 good standing of the Alabama State Bar Association. ~~The legal~~
22 ~~counsel~~ Each attorney shall be commissioned as an assistant or
23 deputy attorney general and, in addition to the powers and
24 duties herein conferred, shall have the authority and duties
25 of an assistant or deputy attorney general, except, that his
26 or her entire time shall be devoted to the commission. ~~The~~
27 Each attorney shall act ~~as an attorney for~~ on behalf of the

1 commission in actions or proceedings brought by or against the
2 commission pursuant to any law under the commission's
3 jurisdiction or in which the commission joins or intervenes as
4 to a matter within the commission's jurisdiction or as a
5 friend of the court or otherwise.

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

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

21 "§36-25-4.

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

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

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

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

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

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

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

24 "(7) Make investigations with respect to statements
25 filed pursuant to this chapter, and with respect to alleged
26 failures to file, or omissions contained therein, any
27 statement required pursuant to this chapter and, upon

1 complaint by any individual, with respect to alleged violation
2 of any part of this chapter to the extent authorized by law.
3 When in its opinion a thorough audit of any person or any
4 business should be made in order to determine whether this
5 chapter has been violated, the commission shall direct the
6 Examiner of Public Accounts to have an audit made and a report
7 thereof filed with the commission. The Examiner of Public
8 Accounts, upon receipt of the directive, shall comply
9 therewith.

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

12 "(9) Issue and publish advisory opinions on the
13 requirements of this chapter, based on a real or hypothetical
14 set of circumstances. Such advisory opinions shall be adopted
15 by a majority vote of the members of the commission present
16 and shall be effective and deemed valid until expressly
17 overruled or altered by the commission or a court of competent
18 jurisdiction. The written advisory opinions of the commission
19 shall protect the person at whose request the opinion was
20 issued and any other person reasonably relying, in good faith,
21 on the advisory opinion in a materially like circumstance from
22 liability to the state, a county, or a municipal subdivision
23 of the state because of any action performed or action
24 refrained from in reliance of the advisory opinion. Nothing in
25 this section shall be deemed to protect any person relying on
26 the advisory opinion if the reliance is not in good faith, is
27 not reasonable, is not in a materially like circumstance. The

1 commission may impose reasonable charges for publication of
2 the advisory opinions and monies shall be collected,
3 deposited, dispensed, or retained as provided herein. On
4 October 1, 1995, all prior advisory opinions of the commission
5 in conflict with this chapter, shall be ineffective and
6 thereby deemed invalid and otherwise overruled unless there
7 has been any action performed or action refrained from in
8 reliance of a prior advisory opinion.

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

13 "(11) In accordance with Sections 41-22-1 to
14 41-22-27, inclusive, the Alabama Administrative Procedure Act,
15 prescribe, publish, and enforce rules to carry out this
16 chapter.

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

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

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

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

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

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

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

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

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

25 "(9) Make investigations with respect to statements
26 filed pursuant to the Fair Campaign Practices Act, and with
27 respect to alleged failures to file, or omissions contained

1 therein, any statement required pursuant to the Fair Campaign
2 Practices Act and, upon complaint by any individual, with
3 respect to alleged violation of any part of that act to the
4 extent authorized by law. When in its opinion a thorough audit
5 of any person or any business should be made in order to
6 determine whether the Fair Campaign Practices Act has been
7 violated, the commission shall direct the Examiner of Public
8 Accounts to have an audit made and a report thereof filed with
9 the commission. The Examiner of Public Accounts, upon receipt
10 of the directive, shall comply therewith.

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

1 the advisory opinions and monies shall be collected,
2 deposited, dispensed, or retained as provided herein.

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

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

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

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

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

20 "~~(d)~~ (e) Not less than 45 days prior to any hearing
21 before the commission, the respondent shall be given notice
22 that a complaint has been filed against him or her and shall
23 be given a summary of the charges contained therein. Upon the
24 timely request of the respondent, a continuance of the hearing
25 for not less than 30 days shall be granted for good cause
26 shown. The respondent charged in the complaint shall have the
27 right to be represented by retained legal counsel. The

1 commission may not require the respondent to be a witness
2 against himself or herself.

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

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

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

14 ~~"(g)~~ (h) 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. If any person fails to comply
18 with any subpoena lawfully issued, or if any witness refuses
19 to produce evidence or to testify as to any matter relevant to
20 the investigation, it shall be the duty of any court of
21 competent jurisdiction or the judge thereof, upon the
22 application of the director, to compel obedience upon penalty
23 for contempt, as in the case of disobedience of a subpoena
24 issued for such court or a refusal to testify therein. A
25 subpoena may be issued only upon the vote of four members of
26 the commission upon the express written request of the
27 director. The subpoena shall be subject to Rules 17.1, 17.2,

1 17.3, and 17.4 of the Alabama Rules of Criminal Procedure. The
2 commission upon seeking issuance of the subpoena shall serve a
3 notice to the recipient of the intent to serve such subpoena.
4 Upon the expiration of 10 days from the service of the notice
5 and the proposed subpoena shall be attached to the notice. Any
6 person or entity served with a subpoena may serve an objection
7 to the issuance of the subpoena within 10 days after service
8 of the notice on the grounds set forth under Rule 17.3(c) of
9 the Alabama Rules of Criminal Procedure, and in such event the
10 subpoena shall not issue until an order to dismiss, modify, or
11 issue the subpoena is entered by a state court of proper
12 jurisdiction, the order to be entered within 30 days after
13 making of the objection. Any vote taken by the members of the
14 commission relative to the issuance of a subpoena shall be
15 protected by and subject to the restrictions relating to
16 secrecy and nondisclosure of information, conversation,
17 knowledge, or evidence of Sections 12-16-214 to 12-16-216,
18 inclusive.

19 ~~"(h)~~ (i) After receiving or initiating a complaint,
20 the commission has 180 days to determine whether probable
21 cause exists. At the expiration of 180 days from the date of
22 receipt or commencement of a complaint, if the commission does
23 not find probable cause, the complaint shall be deemed
24 dismissed and cannot be reinstated based on the same facts
25 alleged in the complaint. Upon good cause shown from the
26 general counsel and chief investigator, the director may
27 request from the commission a one-time extension of 180 days.

1 Upon the majority vote of the commission, the staff may be
2 granted a one-time extension of 180 days in which to complete
3 the investigation. If the commission finds probable cause that
4 a person covered by this chapter has violated it or that the
5 person covered by the Fair Campaign Practices Act has violated
6 that act, the case and the commission's findings shall be
7 forwarded to the district attorney for the jurisdiction in
8 which the alleged acts occurred or to the Attorney General.
9 The case, along with the commission's findings, shall be
10 referred for appropriate legal action. Nothing in this section
11 shall be deemed to limit the commission's ability to take
12 appropriate legal action when so requested by the district
13 attorney for the appropriate jurisdiction or by the Attorney
14 General.

15 ~~"(i)~~ (j) Within 180 days of receiving a case
16 referred by the commission, the Attorney General or district
17 attorney to whom the case was referred may, upon written
18 request of the commission notify the commission, in writing,
19 stating whether he or she intends to take action against the
20 respondent, including an administrative disposition or
21 settlement, conduct further investigation, or close the case
22 without taking action. If the Attorney General or district
23 attorney decides to pursue the case, he or she, upon written
24 request of the commission, may inform the commission of the
25 final disposition of the case. The written information
26 pursuant to this section shall be maintained by the commission
27 and made available upon request as a public record. The

1 director may request an oral status update from the Attorney
2 General or district attorney from time to time.

3 "§36-25-14.

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

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

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

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

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

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

8 "(6) Chief clerks and chief managers.

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

10 "(8) Chief administrators.

11 "(9) Chief county administrators.

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

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

16 "(12) Chief and assistant county building
17 inspectors.

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

20 "(14) Chief municipal clerks.

21 "(15) Chiefs of police.

22 "(16) Fire chiefs.

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

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

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

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

5 "(21) Chief financial and accounting directors.

6 "(22) Chief grant coordinators.

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

11 "(24) Each employee of the Judicial Branch of
12 government, including active supernumerary district attorneys
13 and judges, other than those employed in maintenance,
14 clerical, secretarial, or other similar positions.

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

17 "(b) Unless otherwise required by law, no public
18 employee occupying a position earning less than seventy-five
19 thousand dollars (\$75,000) per year shall be required to file
20 a statement of economic interests, as adjusted by the
21 commission by January 31 of each year to reflect changes in
22 the U.S. Department of Labor's Consumer Price Index, or a
23 successor index. Notwithstanding the provisions of subsection
24 (a) or any other provision of this chapter, no coach of an
25 athletic team of any four-year institution of higher education
26 which receives state funds shall be required to include any
27 income, donations, gifts, or benefits, other than salary, on

1 the statement of economic interests, if the income, donations,
2 gifts, or benefits are a condition of the employment contract.
3 Such statement shall be made on a form made available by the
4 commission. The duty to file the statement of economic
5 interests shall rest with the person covered by this chapter.
6 Nothing in this chapter shall be construed to exclude any
7 public employee or public official from this chapter
8 regardless of whether they are required to file a statement of
9 economic interests. The statement shall contain the following
10 information on the person making the filing:

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

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

22 "(3) A listing of total combined household income of
23 the public official or public employee during the most recent
24 reporting year as to income from salaries, fees, dividends,
25 profits, commissions, and other compensation and listing the
26 names of each business and the income derived from such
27 business in the following categorical amounts: less than one

1 thousand dollars (\$1,000); at least one thousand dollars
2 (\$1,000) and less than ten thousand dollars (\$10,000); at
3 least ten thousand dollars (\$10,000) and less than fifty
4 thousand dollars (\$50,000); at least fifty thousand dollars
5 (\$50,000) and less than one hundred fifty thousand dollars
6 (\$150,000); at least one hundred fifty thousand dollars
7 (\$150,000) and less than two hundred fifty thousand dollars
8 (\$250,000); or at least two hundred fifty thousand dollars
9 (\$250,000) or more. The person reporting shall also name any
10 business or subsidiary thereof in which he or she or his or
11 her spouse or dependents, jointly or severally, own five
12 percent or more of the stock or in which he or she or his or
13 her spouse or dependents serves as an officer, director,
14 trustee, or consultant where the service provides income of at
15 least one thousand dollars (\$1,000) and less than five
16 thousand dollars (\$5,000); or at least five thousand dollars
17 (\$5,000) or more for the reporting period.

18 "(4) If the filing public official or public
19 employee, or his or her spouse, has engaged in a business
20 during the last reporting year which provides legal,
21 accounting, medical or health related, real estate, banking,
22 insurance, educational, farming, engineering, architectural
23 management, or other professional services or consultations,
24 then the filing party shall report the number of clients of
25 such business in each of the following categories and the
26 income in categorical amounts received during the reporting
27 period from the combined number of clients in each category:

1 Electric utilities, gas utilities, telephone utilities, water
2 utilities, cable television companies, intrastate
3 transportation companies, pipeline companies, oil or gas
4 exploration companies, or both, oil and gas retail companies,
5 banks, savings and loan associations, loan or finance
6 companies, or both, manufacturing firms, mining companies,
7 life insurance companies, casualty insurance companies, other
8 insurance companies, retail companies, beer, wine or liquor
9 companies or distributors, or combination thereof, trade
10 associations, professional associations, governmental
11 associations, associations of public employees or public
12 officials, counties, and any other businesses or associations
13 that the commission may deem appropriate. Amounts received
14 from combined clients in each category shall be reported in
15 the following categorical amounts: Less than one thousand
16 dollars (\$1,000); more than one thousand dollars (\$1,000) and
17 less than ten thousand dollars (\$10,000); at least ten
18 thousand dollars (\$10,000) and less than twenty-five thousand
19 dollars (\$25,000); at least twenty-five thousand dollars
20 (\$25,000) and less than fifty thousand dollars (\$50,000); at
21 least fifty thousand dollars (\$50,000) and less than one
22 hundred thousand dollars (\$100,000); at least one hundred
23 thousand dollars (\$100,000) and less than one hundred fifty
24 thousand dollars (\$150,000); at least one hundred fifty
25 thousand dollars (\$150,000) and less than two hundred fifty
26 thousand dollars (\$250,000); or at least two hundred fifty
27 thousand dollars (\$250,000) or more.

1 "(5) If retainers are in existence or contracted for
2 in any of the above categories of clients, a listing of the
3 categories along with the anticipated income to be expected
4 annually from each category of clients shall be shown in the
5 following categorical amounts: Less than one thousand dollars
6 (\$1,000); at least one thousand dollars (\$1,000) and less than
7 five thousand dollars (\$5,000); or at least five thousand
8 dollars (\$5,000) or more.

9 "(6) If real estate is held for investment or
10 revenue production by a public official, his or her spouse or
11 dependents, then a listing thereof in the following fair
12 market value categorical amounts: Under fifty thousand dollars
13 (\$50,000); at least fifty thousand dollars (\$50,000) and less
14 than one hundred thousand dollars (\$100,000); at least one
15 hundred thousand dollars (\$100,000) and less than one hundred
16 fifty 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); at least two hundred fifty
19 thousand dollars (\$250,000) or more. A listing of annual gross
20 rent and lease income on real estate shall be made in the
21 following categorical amounts: Less than ten thousand dollars
22 (\$10,000); at least ten thousand dollars (\$10,000) and less
23 than fifty thousand dollars (\$50,000); fifty thousand dollars
24 (\$50,000) or more. If a public official or a business in which
25 the person is associated received rent or lease income from
26 any governmental agency in Alabama, specific details of the
27 lease or rent agreement shall be filed with the commission.

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

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

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

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

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

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

12 "§36-25-15.

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

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

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

23 Section 2. Sections 17-5-7.2, 17-5-19.1, 17-5-19.2,
24 17-5-21, and 36-14-18 are added to the Code of Alabama 1975,
25 to read as follows:

26 §17-5-7.2. Disposal of campaign property.

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

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

14 §17-5-19.1. Civil penalties.

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

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

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

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

7 (3) The lesser of one thousand two hundred dollars
8 (\$1,200) or 20 percent of the amount of contributions or
9 expenditures not properly reported for a third or subsequent
10 offense in an election cycle.

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

19 (d) Upon imposition of a civil penalty pursuant to
20 this section, the appropriate filing official shall send the
21 person upon whom the penalty is being imposed proper
22 notification by certified mail of the imposition of the
23 penalty. If an electronic mail address is on file with the
24 Secretary of State, the Secretary of State shall also provide
25 such notification by electronic mail.

26 (e) Civil penalties levied shall be paid to the
27 appropriate filing official within 45 days of the finality of

1 any review. The Secretary of State or judge of probate,
2 through his or her attorney, may institute proceedings to
3 recover any penalties ordered pursuant to this section that
4 are not paid by, or on behalf of, the person against whom they
5 are levied and may collect necessary fees and costs associated
6 with the collection action.

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

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

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

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

1 §17-5-19.2. Administrative review.

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

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

13 §17-5-21. Administrative rules.

14 The Secretary of State is authorized to promulgate
15 administrative rules pursuant to the Alabama Administrative
16 Procedure Act as necessary to implement and administer the
17 Alabama Fair Campaign Practices Act.

18 §36-14-18.

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

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

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

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

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

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

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Senate

Read for the first time and referred to the Senate
committee on Constitution, Ethics and Elections .. 17-MAR-15

Read for the second time and placed on the calen-
dar with 1 substitute and..... 09-APR-15

Read for the third time and passed as amended 19-MAY-15

Yeas 32
Nays 0

Patrick Harris
Secretary