

## APPENDIX C

### ETHICS IN GOVERNMENT ACT\*

#### Article 1. General Provisions

- 21-5-1. Short Title.
- 21-5-2. Declaration of Policy.
- 21-5-3. Definitions.
- 21-5-4. Ethics Commission.
- 21-5-5. Operating Expenses.
- 21-5-6. Powers and Duties of the Commission.
- 21-5-7. Initiation of Complaints.
- 21-5-8. Venue.
- 21-5-9. Penalties.
- 21-5-10. Chapter as continuation of laws; Effect of enactment.
- 21-5-11. Acceptance by Public Officers of monetary fees or honoraria.
- 21-5-12. Connected Organizations.

#### Article 2.

- 21-5-30. Contribution made to candidate or Campaign Committee or for recall of a Public Officer.
- 21-5-30.1 Contribution by regulated entities to elected executive officers or candidates.
- 21-5-30.2. Contributions by Public Agencies.
- 21-5-31. Contributions or Expenditures other than through Candidate or Committee; Disclosure of Extensions of Credit.
- 21-5-32. Accounts to be kept by Candidate or Campaign Committee Treasurer.
- 21-5-33. Disposition of Contributions.
- 21-5-34. Disclosure Reports.
- 21-5-35. Acceptance of Contributions during Legislative Sessions.
- 21-5-36. Disposition of Reports; Handling of complaints and violations.

#### Article 2A. Contributions to Candidates for Public Office

- 21-5-40. Definitions.
- 21-5-41. Maximum Allowable Contribution by Persons or Partnerships.
- 21-5-42. Maximum Allowable Contribution by Corporations.
- 21-5-43. Maximum Allowable Contribution by Political Committees.
- 21-5-43.1 Maximum Allowable Contribution by Political parties.
- 21-5-44. Contribution to Campaign Committee deemed contribution to candidate; Rules for Construction.

#### Article 3. Financial Disclosure Statements

- 21-5-50. Filing by Public Officers; Filing by Candidates for Public Office.

#### Article 4. Code of Ethics Ordinance 2136

- 21-5-60. Purpose
- 21-5-61. Definitions
- 21-5-62. Conflict of Interest; Prohibited Conduct
- 21-5-63. Reasonable Interpretation
- 21-5-64. Penalties and violation

**\*Editor's note** –Printed in this appendix at the request of the city is O.C.G.A. §§21-5-1 through 21-5-50, being major part of the Ethics in Government Act.

**Cross Reference** –Officers and employees, §2-56 et seq.

## **APPENDIX C. ETHICS IN GOVERNMENT ACT**

### **ARTICLE 1. GENERAL PROVISIONS**

#### **21-5-1. Short title.**

This chapter shall be known as and may be cited as the “Ethics in Government Act”.

#### **21-5-2. Declaration of Policy.**

It is declared to be the policy of this state, in furtherance of its responsibility to protect the integrity of the democratic process and to ensure fair elections for constitutional offices; state offices; district attorneys, members of the Georgia House of Representatives and Georgia Senate; all constitutional judicial officers; and all county and municipal elected officials, to institute and establish a requirement of public disclosure of campaign contributions and expenditures relative to the seeking of such offices, to the recall of public officers holding elective office, and to the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum or a proposed question which is to appear on the ballot in any county or municipal election. Further, it is the policy of this state that the state’s public affairs will be best served by disclosures of significant private interests of public officers and officials which may influence the discharge of their public duties and responsibilities. The General Assembly further finds that it is for the public to determine whether significant private interests of public officers have influenced the state’s public officers to the detriment of their public duties and responsibilities and, in order to make that determination and hold the public officers accountable, the public must have access to the disclosure of the significant private interests of the public officers of this state.

#### **21-5-3. Definitions.**

As used in this chapter, the term:

(1) “*Business Entity*” means any corporation, sole proprietorship, partnership, limited partnership, enterprise, franchise, association, trust, joint venture, or other entity, whether profit or nonprofit.

(2) “*Campaign Committee*” means the candidate, person, or committee which accepts contributions or makes expenditures designed to bring about the nomination or election of an individual to any elected office. The term “campaign committee” also means any person or committee which accepts contributions or makes expenditures designed to bring about the recall of a public officer holding elective office or to oppose the recall of a public officer holding elective office or any person or any committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of any proposed constitutional amendment, a statewide referendum or a proposed question which is to appear on the ballot in any county or municipal election.

(3) “*Campaign Contribution Disclosure Report*” means a report filed with the appropriate filing officer by a candidate or the chairperson or treasurer of a campaign committee setting forth all expenditures of \$101.00 or more and all contributions of \$101.00 or more, including contributions and expenditures of lesser amounts when the aggregate amount thereof by or to a person is \$101.00 or more for the calendar year in which the report is filed. Such report shall also include the total amount of all individual contributions received or expenditures made of less than \$101.00 each. The first report required in the calendar year of the election shall contain all such expenditures made and all such contributions received by the candidate or the committee in prior years in support of the campaign in question.

(4) “*Candidate*” means an individual who seeks nomination for election or election to any public office, whether or not such an individual is elected; and a person shall be deemed to seek nomination or election if such person has taken necessary action under the laws of this state to qualify such person for nomination for election or election or has received contributions or made expenditures in pursuit of such nomination or election or has given such person’s consent for such person’s campaign committee to receive contributions or make expenditures with a view to bringing about such person’s nomination for election or election to such office.

(5) “*Commission*” means the State Ethics Commission created under Code Section 21-5-4.

(6) “*Contribution*” means a gift, subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value conveyed or transferred for the purpose of influencing the nomination for election or election of any person for office, or opposing the recall of a public officer holding elective office, or the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in any county or municipal election. The term specifically shall not include the value of personal services performed by persons who serve without compensation from any sources and on a voluntary basis. The term “contributing” shall include other forms of payment made to candidates for office or who hold office when such fees and compensation made can be reasonably construed as a campaign contribution designed to encourage or influence a candidate or public officer holding elective office. The term “contribution” shall also encompass transactions wherein a qualifying fee required of the candidate is furnished or paid by anyone other than the candidate.

(7) “*Direct Ownership Interest*” means the holding or possession of good legal or rightful title of property or the holding or enjoyment of real or beneficial use of the property by any person and includes any interest owned or held by a spouse of such person if such interest is held jointly or as tenants in common between the person and spouse.

(8) “*Election*” means a primary election; run-off election, either primary or general; special election; or general election. The term “election” also means a recall election.

(9) “*Expenditure*” means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value made for the purpose of influencing the nomination for election or election of any person, bringing about the recall of a public officer holding elective office or opposing the recall of a public officer holding elective office, or the influencing of voter approval or rejection of a proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot in any county or municipal election. The term specifically shall not include the value of personal services performed by persons who serve without compensation from any source and on a voluntary basis. The term “expenditure” shall also include the payment of a qualifying fee for and in behalf of a candidate.

(10) “*Fiduciary Position*” means any position imposing a duty to act primarily for the benefit of another person as an officer, director, manager, partner or other designation of general responsibility of a business entity.

(11) “*Filing Officer*” means that official who is designated in Code Section 21-5-34 to receive campaign contribution disclosure reports; provided, however, that such term shall not include the State Ethics Commission.

(12) “*Gift*” means any gratuitous transfer to a public officer, the spouse of the public officer, or any dependents of the public officer or a loan of property or services which is not a contribution as defined in paragraph (6) of this Code section and which is in the amount of \$101.00 or more.

(13) “*Intangible Property*” means property which is not real property and which is held for profit and includes stocks, bonds, interest in partnerships, choses in action, and other investments but shall not include any ownership interest in any public or private retirement or pension fund, account, or system and shall not include any ownership interest in any public or private life insurance contract or any benefit, value, or proceeds of such life insurance contract.

(14) “*Person*” means an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

(14.1) “*Political Action Committee*” means: (A) any committee, club, association, partnership, corporation, labor union, or other group of persons which receives donations during a calendar year from persons who are members or supporters of the committee and which distributes these funds as contributions to one or more candidates for public office or campaign committees of candidates for public office; and (B) a “separate segregated fund” as defined in Code Section 21-5-40. Such term does not include a campaign committee.

(14.2) “*Public Employee*” means every person employed by the executive, legislative, or judicial branch of state government, or any department, board, bureau, agency, commission, or authority thereof.

15) “*Public Officer*” means:

- (a) Every constitutional officer;
- (b) Every elected state official;
- (c) The Executive Head of every state department or agency, whether elected or appointed;
- (d) Each member of the General Assembly;
- (e) The Executive Director of each state board or authority and the members thereof;
- (f) (Effective until January 1, 1997). Every elected county official, every elected county or area school superintendent, and every elected member or area board of education; and
- (g) (Effective January 1, 1997). Every elected county official and every elected member of a local board of education; and
- (h) Every elected municipal official.

#### **21-5-4. Ethics Commission.**

(a) Those members serving on the state campaign and financial disclosure commission prior to March 1, 1987, shall serve for a term of office which expires March 1, 1987.

(b) There is created the State Ethics Commission with such duties and powers as are set forth in this chapter. The commission shall be a successor to the state campaign and financial disclosure commission in all matters pending before the state campaign and financial disclosure commission on March 1, 1987, and may continue to investigate, prosecute and act upon all such matters. The commission shall be governed by five members appointed as follows: three members, not more than

two of whom shall be from the same political party, shall be appointed by the Lieutenant Governor for a term of four years; and one member shall be appointed by the Speaker of the House of Representatives for a term of four years. The initial members shall take office on March 2, 1987. Upon the expiration of a member's term of office, a new member, appointed in the same manner as the member whose term of office expired as provided in this subsection, shall become a member of the commission and shall serve for a term of four years and until such member's successor is duly appointed and qualified. If a vacancy occurs in the membership of the commission, a new member shall be appointed to the unexpired term of office by the state official who appointed the vacating members. Members of the commission shall not serve more than one complete term of office; provided, however, that the members of the state campaign and financial disclosure commission serving on March 1, 1987, shall be eligible for appointment as initial members of the State Ethics Commission.

(c) All members of the commission shall be residents of this state.

(d) Any person who:

- (1) Has qualified to run for any federal, state, or local public office within a period of five years prior to such person's appointment.
- (2) Has held any federal, state or local public office within a period of five years prior to such person's appointment; or
- (3) Serves as an office of any political party, whether such office is elective or appointive and whether such office exists on a local, state, or national level shall be ineligible to serve as a member of the commission.

(e) The commission shall elect a chairperson, a vice chairperson, and other officers as it deems necessary. The members shall not be compensated for their services but they shall be reimbursed in an amount equal to the per diem received by the General Assembly for each day or portion thereof spent in serving as members of the commission. They shall be paid their necessary traveling expenses while engaged in the business of the commission.

(f) A majority of the members of the commission constitutes a quorum for the transaction of business. The vote of at least a majority of the members present at any meeting at which a quorum is present is necessary for any action to be taken by the commission. No vacancy in the membership of the commission impairs the right of a quorum to exercise all rights and perform all duties of the commission.

(g) Meetings of the members of the commission shall be held at the call of the chairperson or whenever any two members so request.

#### **21-5-5. Operating Expenses.**

(a) The commission is vested with the following powers:

- (1) To meet at such times and places as it may deem necessary;
- (2) To contract with other agencies, public or private, or persons as it deems necessary for the rendering and affording of such services, facilities, studies, and reports to the commission as will best assist it to carry out its duties and responsibilities.;

- (3) To cooperate with and secure the cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in the furtherance of the purposes of this chapter;
- (4) To employ an executive secretary and such additional staff as the commission deems necessary to carry out the powers delegated to the commission by this chapter;
- (5) To issue subpoenas to compel any person to appear, give sworn testimony, or produce documentary or other evidence;
- (6) To institute and prosecute actions in the superior courts, in its own name, seeking to enjoin or restrain any violation or threatened violation of this chapter;
- (7) To adopt in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act" such rules and regulations as are necessary to carry out the purposes of this chapter; and
- (8) To do any and all things necessary or convenient to enable it to perform wholly and adequately its duties and to exercise the power granted to it.

(b) The commission shall have the following duties:

- (1) To prescribe forms to be used in complying with this chapter;
- (2) To prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons required by this chapter to file statements and reports;
- (3) To accept and file any information voluntarily supplied that exceeds the requirements of this chapter;
- (4) To develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter;
- (5) To adopt a retention standard for records of the commission in accordance with Article 5 of Chapter 18 of Title 50, the "Georgia Records Act";
- (6) To prepare and publish such other reports and technical studies as in its judgment will tend to promote the purposes of this chapter;
- (7) To provide for public dissemination of such summaries and reports;
- (8) To determine whether the required statements and reports have been filed and, if so, whether they conform to the requirements of this chapter;
- (9) To make investigations subject to the limitations contained in Code Section 21-5-7, with respect to the statements and reports filed under this chapter and with respect to alleged failure to file any statements or reports required under this chapter and upon receipt of the written complaint of any person, verified under oath to the best information, knowledge, and belief by the person making such complaint with respect to an alleged violation of any provision of this chapter, provided that nothing in this Code section shall be construed to limit or encumber the right of the commission to

initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter;

- (10) (a) To conduct a preliminary investigation, subject to the limitations contained in Code Section 21-5-7, of the merits of a written complaint by any person who believes that a violation of this chapter has occurred, verified under oath to the best information, knowledge, and belief by the person making such complaint. If there are found no reasonable grounds to believe that a violation has occurred, the complaint shall be dismissed, subject to being reopened upon discovery of additional evidence or relevant material. If the commission determines that there are such reasonable grounds to believe that a violation has occurred, it shall give notice by summoning the persons believed to have committed the violation to a hearing. The hearing shall be conducted in all respects in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act". The commission may file a complaint charging violations of this chapter, and any person aggrieved by the final decision of the commission is entitled to judicial review in accordance with Chapter 13 of Title 50; provide, however, that nothing in this Code section shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter.  
  
(b) In any such preliminary investigation referenced in subparagraph (a) of this paragraph, until such time as the commission determines that there are reasonable grounds to believe that a violation has occurred, it shall not be necessary to give the notice by summons nor to conduct a hearing in accordance with Chapter 13 of Title 50, "Georgia Administrative Procedure Act";
- (11) To report suspected violations of law to the appropriate law enforcement authority.
- (12) To investigate upon a written complaint any illegal use of state employees in a political campaign by any candidate.
- (13) To issue, upon request, and publish advisory opinions on the requirements of this chapter, based on a real or hypothetical set of circumstances.
- (14) To issue orders, after the completion of appropriate proceedings, directing compliance with this chapter or prohibiting the actual or threatened commission of any conduct constituting a violation which order may include a provision requiring the violator:
  - (a) To cease and desist from committing further violations;
  - (b) To make public complete statements, in corrected form, containing the information required by this chapter;
  - (c) (i) To pay a civil penalty not to exceed \$1,000.00 for each violation contained in any report required by this chapter or for each failure to comply with any other provision of this chapter or of any rule or regulation promulgated under this chapter.  
  
(ii) A civil penalty shall not be assessed against any person except after notice and hearing as provided by Chapter 13 of Title 50, the "Georgia Administrative Procedure Act". The amount of any civil penalty finally assessed shall be recoverable by a civil action brought in the name of the commission. All

moneys recovered pursuant to this Code section shall be deposited in the state treasury.

- (iii) The Attorney General of this state shall, upon complaint by the commission or may, upon the Attorney General's own initiative if after examination of the complaint and evidence the Attorney General believes a violation has occurred, bring an action in the superior court in the name of the commission for a temporary restraining order or other injunctive relief or for civil penalties assessed against any person violating any provision of this chapter or any rule or regulation duly issued by the commission.
- (iv) Any action brought by the Attorney General to enforce civil penalties assessed against any person for violating the provisions of this chapter or any rule or regulation duly issued by the commission or any order issued by the commission ordering compliance or to cease and desist from further violations shall be brought in the superior court of the county of the residence of the party against whom relief is sought. Service of process shall lie in any jurisdiction within the state. In such actions, the superior court will be limited to whether notice was given by the commission to the violator in compliance with the Constitution and the rules of procedure of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act". Upon satisfaction that notice was given and a hearing was held pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act", the superior court shall enforce the orders of the commission and the civil penalties assessed under this chapter and the superior court shall not make independent inquiry as to whether the violations have occurred.
- (v) In any action brought by the Attorney General to enforce any of the provisions of this chapter or of any rule or regulation issued by the commission, the judgment, if in favor of the commission, shall provide that the defendant pay to the commission the costs, including reasonable attorney's fees incurred by the commission in the prosecution of such action;

- (15) To make public its conclusion that a violation has occurred and the nature of such violation;
- (16) To petition the superior court within the county where the hearing was or is being conducted for the enforcement of any order issued in connection with such hearing; and
- (17) To report to the General Assembly and the Governor at the close of each fiscal year concerning the action taken during that time the names, salaries, and duties of all individuals employed and the funds disbursed and to make such further report on the matters within its jurisdiction as may appear desirable.

(c) The Secretary of State, through the Secretary of State's office, shall perform the ministerial functions which the commission may require. The office of the Secretary of State shall be designated as the place where members of the public may file papers or correspond with the commission and receive any form or instruction from the commission. The Secretary of State or the Secretary of State's designee shall serve as secretary to the commission.



### **21-5-7. Initiation of complaints.**

The commission shall not initiate any investigation or inquiry into any matter under its jurisdiction based upon the complaint of any person unless that person shall reduce the same in writing and verify the same under oath to the best information, knowledge, and belief of such person, the falsification of which shall be punishable as false swearing under Code Section 16-10-71. The person against whom any complaint is made shall be furnished or mailed a copy of the complaint by the commission within five business days after the filing of such complaint. Nothing in this Code section, however, shall be construed to limit or encumber the right of the commission to initiate on probable cause an investigation on its own cognizance as it deems necessary to fulfill its obligations under this chapter.

### **21-5-8. Venue**

Venue for prosecution of civil violations of this chapter or for any other action by or on behalf of the commission shall be in the county of the residence of the candidate or public officer at the time of the alleged violation or action.

### **21-5-9. Penalties.**

Except as otherwise provided in this chapter, any person who knowingly fails to comply with or who knowingly violates this chapter shall be guilty of a misdemeanor.

### **21-5-10. Chapter as Continuation of Laws; Effect of Enactment.**

The provisions of this chapter, so far as they are the same as those of existing laws, are intended as a continuation of such laws and not as new enactments. The repeal by this chapter of any Act of the General Assembly, or part thereof, shall not revive any Act, or part thereof, heretofore repealed or superseded. This chapter shall not affect any act done, liability or penalty incurred, or right accrued or vested prior to the taking effect of this chapter, nor shall this chapter affect any actions or prosecution then pending, or to be instituted, to enforce any right or penalty then accrued or to punish any offense theretofore committed.

### **21-5-11. Acceptance by Public Officers of Monetary Fees or Honoraria.**

(a) No public officer other than a public officer elected state wide shall accept a monetary fee or honorarium in excess of \$101.00 for a speaking engagement, participation in a seminar, discussion panel, or other activity which directly relates to the official duties of that public officer or the office of that public officer.

(b) No public officer elected state wide shall accept any monetary fee or honorarium for a speaking engagement, participation in a seminar, discussion panel, or other such activity.

(c) For purposes of this chapter, actual and reasonable expenses for food, beverages, travel, lodging, registration for a meeting which are provided to permit participation in a panel or speaking engagement at the meeting shall not be monetary fees or honoraria.

### **21-5-12. Connected Organizations.**

(a) As used in this Code section, the term "connected organization" means any organization, including any corporation, labor organization, membership organization, or cooperative, which is not a political action committee, as defined in this article, but which, directly or indirectly, establishes or

administers a political action committee or which provides more than 40 percent of the funds of the political action committee for a calendar year.

(b) The name of each political action committee shall include the name of its connected organization.

(c) The name of any separate segregated fund, as defined in Code Section 21-5-40 shall include the name of its connected organization.

## **APPENDIX C. ETHICS IN GOVERNMENT ACT**

### **ARTICLE 2. CAMPAIGN CONTRIBUTIONS**

#### **21-5-30. Contributions made to Candidate or Campaign Committee or for recall of a Public Officer.**

(a) Except as provided in Code Section 21-5-31, no contribution to bring about the nomination or election of a candidate for any office shall be made except directly to a candidate for such candidate's campaign committee which is organized for the purpose of bringing about the nomination or election of any such candidate; and no contributions to bring about the recall of a public officer or to oppose the recall of a public officer or to bring about the approval or rejection by the voters of a proposed constitutional amendment, state-wide referendum, or other issue at the municipal or county level shall be accepted except directly by a campaign committee organized for that purpose.

(b) Each candidate shall maintain records and file reports as required by this chapter or shall have a campaign committee for the purposes of maintaining records and filing reports as required by this chapter. Every campaign committee shall have a chairperson and a treasurer, except that the candidate may serve as the chairperson and treasurer. Before a campaign committee accepts contributions, the name and address of the chairperson and treasurer shall be filed with the Secretary of State. When a candidate has been elected to public office, the registration of that candidate's campaign committee with the Secretary of State shall remain in effect so long as the candidate remains in office until and unless: (1) the registration is canceled by the campaign committee or the candidate; or (2) a new campaign committee for that candidate is registered with the Secretary of State. The same person may serve as chairperson and treasurer. No contributions shall be accepted by or on behalf of the campaign committee at a time where there is a vacancy in the office of chairperson or treasurer of the campaign committee.

(c) Contributions of money received pursuant to subsection (a) of this Code section shall be deposited in the separate campaign depository account opened and maintained by the candidate or the campaign committee for the purpose for which such campaign committee was organized. Such account may be an interest-bearing accounting; provided, however, that any interest earned on such account shall be deemed contributions and may only be used for the purposes allowed under this chapter.

(d) Where separate contributions of less than \$101.00 are knowingly received from a common source, such contributions shall be aggregated for reporting purposes. For purposes of fulfilling such aggregation requirement, members of the same family, firm, or partnership or employees of the same person, as defined in paragraph (14) of Code Section 21-5-3, shall be considered to be a common source, provided, however, that the purchase of tickets for not more than \$25.00 each and for or attendance at a fundraising event by members of the same family, firm, or partnership or employees of the same person shall not be considered to be contributions from a common source except to the extent that tickets are purchased as a block.

(e) The making and acceptance of anonymous contributions are prohibited. Any anonymous contributions received by a candidate or campaign committee shall be transmitted to the director of the Office of Treasury and Fiscal Services for deposit in the state treasury, and the fact of such contribution and transmittal shall be reported to the commission.

(f) A person acting on behalf of a public utility corporation regulated by the Public Service Commission shall not make, directly or indirectly, any contribution to a political campaign. Any person who knowingly violates this subsection with respect to a member of the Public Service Commission, a candidate for the Public Service Commission, or the campaign committee of a candidate for the Public Service Commission, shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than five years or by a fine not to exceed \$5,000.00 or both; and any person who knowingly violates this subsection with respect to any other public officer, a candidate for such other public office, or the campaign committee of a candidate for such other public office, shall be guilty of a misdemeanor.

(g) Neither a candidate who is not a public officer nor his or her campaign committee may lawfully accept a campaign contribution until the candidate has filed with the Secretary of State or appropriate local filing officer a declaration of intention to accept campaign contributions which shall include the name and address of the candidate and the names and addresses of his or her campaign committee officers, if any.

#### **21-5-30.1. Contributions by Regulated Entities to Elected Executive Officers or Candidates.**

(a) Except as otherwise provided in this subsection, the definitions set forth in Code Section 21-5-3 shall be applicable to the provisions of this Code section. As used in this Code section, the term:

- (1) “*Campaign Committee*” means the candidate, person, or committee which accepts contributions to bring about the nomination for election or election of an individual to the office of an elected executive officer.
- (2) “*Contribution*” means a gift, subscription, membership, loan, forgiveness of debt, advance or deposit of money, or anything of value conveyed or transferred for the purpose influencing the nomination for election or election of an individual to the office of an elected executive officer or encouraging the holder of such office to seek reelection. The term “contribution” shall include the payment of a qualifying fee for and on behalf of a candidate for the office of an elected executive officer and any other payment or purchase made for and on behalf of the holder of the office of an elected executive officer or for or on behalf of a candidate for that office when such payment or purchase is made for the purpose of influencing the nomination for election or election of the candidate and is made pursuant to the request or authority of the holder of such office, the candidate, the campaign committee of the candidate, or any other agent of the holder of such office or the candidate. The term “contribution” shall not include the value of personal services performed by persons who serve on a voluntary basis without compensation from any source.
- (3) “*Elected Executive Officer*” means the Secretary of State, Attorney General, State School Superintendent, Commissioner of Insurance, Commissioner of Agriculture, and Commissioner of Labor.
- (4) “*Political Action Committee*” means any committee, club, association, partnership, corporation, labor union, or other group of persons which receives donations

aggregating in excess of \$1,000.00 during a calendar year from persons who are members or supporters of the committee and which distributes these funds as contributions to one or more campaign committees of candidates for public office. Such term does not mean a campaign committee.

- (5) “*Regulated Entity*” means any person who is required by law to be licensed by an elected executive officer or a board under the jurisdiction of an elected executive officer, any person who leases property owned by or for a state department, or any person who engages in a business or profession which is regulated by an elected executive officer or by a board under the jurisdiction of an elected executive officer.

(b) No regulated entity and no person or political action committee acting on behalf of a regulated entity shall make a contribution to or on behalf of a person holding office as an elected executive officer regulating such entity or to or on behalf of a candidate for the office of an elected executive officer regulating such entity or to or on behalf of a campaign committee.

(c) No person holding office as an elected executive officer and no candidate for the office of an elected executive officer and no campaign committee of a candidate for the office of an elected executive officer shall accept a contribution in violation of subsection (b) of this Code section.

(d) Nothing contained in this Code section shall be construed to prevent any person who may be employed by a regulated entity, including a person in whose name a license or lease is held, from voluntarily making a campaign contribution from that person’s personal funds to or on behalf of a person holding office as an elected executive officer regulating such entity or to or on behalf of a candidate for the office of an elected executive officer regulating such entity or to or on behalf of a campaign committee of any such candidate. It shall be unlawful and a violation of this Code section for any regulated entity or other person to require another by coercive action to make any such contribution.

#### **21-5-30.2. Contributions by Public Agencies.**

(a) Except as otherwise provided in this subsection, the definitions set forth in Code Section 21-5-3 shall be applicable to the provisions of this Code section. As used in this Code section, the term:

(1) “*Agency*” means:

- (a) Every state department, agency board, bureau, commission, and authority;
- (b) Every county, municipal corporation, school district, or other political subdivision of this state;
- (c) Every department, agency, board, bureau, commission, authority, or similar body of each such county, municipal corporation, or other political subdivision of this state; and
- (d) Every city, county, regional, or other authority established pursuant to the laws of this state.

(2) “*Contribution*” means a gift, subscription, membership, loan, forgiveness of debt, advance or deposit of money, or anything of value conveyed or transferred by or on behalf of an agency, without receipt of payment therefore, to any campaign committee, political action committee, or political organization or to any candidate for campaign purposes.

(3) “*Elector*” means any person who shall possess all of the qualifications for voting now or hereafter prescribed by the laws of this state and who shall have registered in accordance with Chapter 2 or 3 of this title.

(4) “*Political Action Committee*” means any committee, club, association, partnership, corporation, labor union, or other group of persons which receive donations aggregating in excess of \$1,000.00 during a calendar year from persons who are members or supporters of the committee and which distributes these funds as contributions to one or more campaign committees of candidates for public office. Such term does not mean a campaign committee.

(5) “*Political Organization*” means an affiliation of electors organized for the purpose of influencing or controlling the policies and conduct of government through the nomination of candidates for public office and, if possible, the election of its candidates to public office.

(6) “*Public Meeting Place*” means any county, municipal, or other public building suitable and ordinarily used for public gatherings.

(b) No agency and no person acting on behalf of an agency shall make, directly or indirectly, any contribution to any campaign committee, political action committee, or political organization or to any candidate; but nothing in this Code section shall prohibit the furnishing of office space, facilities, equipment, goods, or services to a public officer for use by the public officer in such officer’s fulfillment of such office.

(c) No campaign committee, political action committee, or political organization or candidate shall accept a contribution in violation of subsection (b) of this Code section.

(d) Nothing contained in this Code section shall be construed to:

- (1) Affect the authority of the State Personnel Board regarding the regulation of certain political activities of public employees in the classified service of the state merit system;
- (2) Affect the authority of any agency regarding the regulation of the political activities of such agency’s employees;
- (3) Affect the use of the capitol building and grounds as specified in Code Section 50-16-4; or
- (4) Prohibit the use of public meeting places by political organizations when such meeting places are made available to different political organizations on an equal basis; provided, however, this paragraph shall not be construed to create a right for a political organization to use a public meeting place.

**21-5-31. Contributions or Expenditures other than through Candidate or Committee; Disclosure of Extensions of Credit.**

(a) Any person who accepts contributions for, makes contributions to, or makes expenditures on behalf of candidates is subject to the same disclosure requirements of this chapter as a candidate, except that contributions from individuals made directly to a candidate or his campaign committee do not require separate reporting, except that contributions from persons as defined in paragraph (14) of Code Section 21-5-3 which do not exceed \$500.00 in the aggregate or which are made to only one candidate, regardless of the amount, do not require separate reporting and except that copies of campaign contributions disclosure reports do not have to be filed with local election superintendents

as required of candidates for membership in the General Assembly pursuant to paragraph (1) of subsection (a) of Code Section 21-5-34.

(b) When a contribution consists of the proceeds of a loan, advance, or other extension of credit, the campaign contribution disclosure report shall also contain the name of the lending institution or party the advance or extension of credit and the names, mailing addresses, occupations, and places of employment of all persons having any liability for repayment of the loan, advance, or extension of credit; and, if any such persons shall have a fiduciary report shall specify such relationship.

#### **21-5-32. Accounts to be kept by Candidate or Campaign Committee Treasurer.**

(a) The candidate or treasurer of each campaign committee shall keep detailed accounts, current within not more than five business days after the date of receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate or committee. The candidate or treasurer shall also keep detailed accounts of all deposits and of all withdrawals made to the separate campaign depository and of all interest earned on any such deposits.

(b) Accounts kept by the candidate or treasurer of a campaign committee pursuant to this Code section may be inspected under reasonable circumstances before, during, or after the election to which the accounts refer by an authorized representative of the commission. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.

(c) Records of such accounts kept by the candidate or campaign committee shall be preserved for three years from the termination date of the campaign or elective office conducted by the candidate or of the campaign committee for any candidate or for three years from the election to bring about the approval or rejection by the voters of any proposed constitutional amendment, referendum, or local issue or of any recall vote.

#### **21-5-33. Disposition of Contributions.**

(a) Contributions to a candidate, a campaign committee, or a public officer holding elective office and any proceeds from investing such contributions shall be utilized only to defray ordinary and necessary expenses which may include any loan of money from a candidate or public officer holding elective office to the campaign committee of such candidate or such public officer, incurred in connection with such candidate's campaign for elective office or such public officer's fulfillment or retention of such office.

- (b) (1) All contributions received by a candidate or such candidate's campaign committee or a public officer holding elective office in excess of those necessary to defray expenses pursuant to subsection (a) of this Code section and as determined by such candidate or such public officer may only be used as follows:
- (a) As contributions to any charitable organization described in 26 U.S.C. 170(c) as said federal statute exists on March 1, 1986, and which additionally shall include educational, eleemosynary, and non-profit organizations;
  - (b) Except as otherwise provided in subparagraph (d) of this paragraph for transferal without limitation to any national, state, or local committee of any political party or to any candidate;

- (c) For transferal without limitation to persons making such contributions, not to exceed the total amount cumulatively contributed by each such transferee;
- (d) For use in future campaigns for only that elective office for which those contributions were received. With respect to contributions held on January 1, 1992, or received thereafter, in the event the candidate, campaign committee, or public officer holding elective office has not designated, prior to receiving contributions to which this Code section is applicable, the office for which campaign contributions are received thereby, those contributions shall be deemed to have been received for the elective office which the candidate held at the time the contributions were received or, if the candidate did not then hold elective office, those contributions shall be deemed to have been received for that elective office for which that person was a candidate most recently following the receipt of such contribution; or
- (e) For repayment of any prior campaign obligations incurred as a candidate.

- (2) Any candidate or public officer holding elective office may provide in the will of such candidate or such public officer that the contributions shall be spent in any of the authorized manners upon the death of such candidate or such public officer; and, in the absence of any such direction in the probated will of such candidate or such public officer, the contributions shall be paid to the treasury of the state party with which such candidate or such public officer was affiliated in such candidate's or such public officer's last election or elective office after the payment of any expenses pursuant to subsection (a) of this Code section. Notwithstanding any other provisions of this paragraph, the personal representative or executor of the state shall be allowed to use or pay out funds in the campaign account in any manner authorized in subparagraphs (a) and (e) of paragraph (1) of this subsection.

(c) Contributions and interest thereon, if any, shall not constitute personal assets of such candidate or such public officer.

- (d)
  - (1) Contributions received by a campaign committee designed to bring about the recall of a public officer holding elective office or to oppose the recall of a public officer holding elective office or any person or to bring about the approval or rejection by the voters of any proposed constitutional amendment, a state-wide referendum, or a proposed question which is to appear on the ballot, in any county or municipal election and any proceeds derived from investing such contributions shall be utilized only to defray ordinary and necessary expenses associated with influencing the voters on such issue.
  - (2) All contributions received by a campaign committee as provided in paragraph (1) of this subsection in excess of those necessary to defray expenses relative to the influencing of voters on such issue as determined by the campaign committee may only be used as follows:
    - (a) Contributions to any charitable organization described in 26 U.S.C. 170(c) as such federal statute exists on March 1, 1986, and which additionally shall include education, eleemosynary, and non-profit organizations; or
    - (b) For repayment on a pro rata basis to persons making such contributions.

## 21-5-34. Disclosure Reports.

- (a) (1) The candidate or the chairperson or treasurer of each campaign committee organized to bring about the nomination or election of a candidate for any office except county and municipal offices or the General Assembly and the chairperson or treasurer of every campaign committee designed to bring about the recall of a public officer or to oppose the recall of a public officer or designed to bring about the approval or rejection by the voters of any proposed constitutional amendment or state-wide referendum shall file with the Secretary of State the required campaign contribution disclosure reports. A candidate for membership in the General Assembly or the chairperson or treasurer of such candidate's campaign committee shall file such candidate's reports with the election superintendent of the county of such candidate's residence and shall file a copy of such reports with the Secretary of State; and such reports of candidates for membership in the General Assembly shall be deemed to be filed for all legal purposes where the originals are filed, except that this shall not be construed to prohibit the commission from hearing and deciding matters relating to such reports at the state capitol or any other place where the commission is authorized to meet.
- (2) (a) Any campaign committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of any proposed question which is to appear on the ballot in any county or municipal election shall file a campaign contribution disclosure report as prescribed by this chapter, provided, however, that such report shall only be required if such campaign committee has received contributions which total more than \$500.00 or if such campaign committee has made expenditures which total more than \$500.00. All advertising pertaining to referendums must identify the principal officer of such campaign committee by listing or stating the name and title of the principal officer.
- (b) If a campaign committee is required to file a report under subparagraph (a) of this paragraph, such report shall be filed with the election superintendent of the county in the case of a county election or with the municipal clerk in the case of a municipal election. Any such report shall be filed 15 days prior to the date of the election; and a final report shall be filed prior to December 31<sup>st</sup> of the year in which the election is held.
- (3) A candidate for county office or the chairperson or treasurer of such candidate's campaign committee shall file the required campaign contribution disclosure reports with the election superintendent in the respective county of election.
- (4) A candidate for municipal office or such candidate's campaign committee shall file the reports with the municipal clerk in the respective municipality of election or, if there is no clerk, with the chief executive officer of the municipality.
- (b) (1) All reports shall list the following:
  - (a) The amount and date of receipt, along with the name, mailing address and occupation of any person making a contribution of \$101.00 or more, including the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events coordinated for the purpose of raising campaign contributions for the reporting candidates.



- (b) The name and mailing address and occupation or place of employment of any person to whom an expenditure of \$101.00 or more is made and the amount and general purpose of such expenditure.
- (c) When a contribution consists of a loan, advance, or other extension of credit, the advance or extension of credit and the names, mailing addresses, occupations, and places of employment of all persons having any liability for repayment of the loan, advance, or extension of credit; and, if any such persons shall have fiduciary relationship to the lending institution or party making the advance or extension of credit, the report shall specify such relationship.
- (d) Total contributions received and total expenditures made as follows:
  - (i) Contributions and expenditures shall be reported for the applicable reporting cycle;
  - (ii) A reporting cycle shall commence on January 1<sup>st</sup> of the year in which an election is to be held for the public office to which a candidate seeks election and shall conclude:
    - (I) At the expiration of the term of office if such candidate is elected and does not seek reelection or election to some other office;
    - (II) On December 31<sup>st</sup> of the year in which such election was held if such candidate is unsuccessful; or
    - (III) If such candidate is successful and seeks reelection or seeks election to some other office the current reporting cycle shall end when the reporting cycle for reelection or for some other office begin;
  - (iii) The first report of a reporting cycle shall list the net balance on hand brought forward from the previous reporting cycle, if any, and the total contributions received during the period covered by the report;
  - (iv) Subsequent reports shall list the total contributions received during the period covered by the report and the cumulative total of contributions received during the reporting cycle.
  - (v) The first report of a reporting cycle shall list the total expenditures made during the period covered by the report.
  - (vi) Subsequent reports shall list the total expenditures made during the period covered by the report and the cumulative total of expenditures made during the reporting cycle; and
  - (vii) If a public officer seeks reelection to the same public office, the net balance on hand at the end of the current reporting cycle shall be carried forward to the first report of the applicable new reporting cycle; and
- (e) The corporate, labor union, or other affiliation of any political action committee making a contribution of \$101.00 or more.

(2) Each report shall be in such form as will allow for the separate identification of a contribution or contributions which are less than \$101.00 but which become reportable due to the receipt of an additional contribution or contributions which when combined with such previously received contribution or contributions cumulatively exceed \$101.00.

(c) Candidates or campaign committees which accept contributions or make expenditures designed to bring about the nomination or election of a candidate shall file campaign contribution disclosure reports 45 days and 15 days before the primary election and ten days after the primary election. Candidates in a general or special election campaign shall make such reports 25 days prior to the general or special election, and all candidates shall make a final campaign contribution disclosure report not later than December 31<sup>st</sup> of the year in which the election occurs. All candidates shall have a five day grace period in filing the required reports. If a run-off election is required following a primary, general, or special election, candidates in such an election shall make such reports six days prior to the run-off election and shall have a two day grace period in filing the required report, with the exception that, if an election is scheduled on a Wednesday, the grace period shall end the Friday preceding the election. The mailing of such reports by United States mail with adequate postage affixed, within the required filing time, shall be prima-facie evidence of filing. A report or statement required to be filed by this Code section shall be verified by the oath or affirmation of the person filing such report or statement taken before an officer authorized to administer oaths. Each report required in the calendar year of the election shall contain cumulative totals of all contributions which have been received and all expenditures which have been made in support of the campaign in question and which are required or previously have been required to be reported.

(d) In the event any candidate covered by this chapter has no opposition in either a primary or a general election and receives no contribution of \$101.00 or more, such candidate shall only be required to make the initial and final report as required under this chapter.

(e) A supplemental campaign contribution disclosure report shall be filed by each public officer to an office covered by this chapter no later than December 31<sup>st</sup> of each year following the year in which the election occurs. If no contribution is received or expenditure made which is required to be reported under this chapter between the date of the last campaign contribution disclosure report filed pursuant to this chapter and December 31<sup>st</sup> of any year, a supplemental campaign contribution disclosure report shall be required by this chapter and shall so indicate no contributions or expenditures.

(f) Any campaign committee which accepts contributions or makes expenditures designed to bring about the recall of a public officer or to oppose the recall of a public officer shall file campaign contribution disclosure reports with the Secretary of State as follows:

- (1) An initial report shall be filed within 15 days after the date when the official recall petition forms were issued to the sponsors;
- (2) A second report shall be filed 45 days after the filing of the initial report;
- (3) A third report shall be filed within 20 days after the election superintendent certifies legal sufficiency or insufficiency of a recall petition;
- (4) A final report shall be filed prior to December 31<sup>st</sup> of the year in which the recall election is held or, in any case where such recall election is not held, a final report shall be filed prior to December 31<sup>st</sup> of any year in which such campaign committee accepts such contributions or makes such expenditures; and

- (5) In the case of state officials or county officials, a copy of each of the reports shall also be filed with the election superintendent in the county of residence of the official sought to be recalled. In the case of municipal officials, a copy of the reports shall also be filed with the municipal clerk in the municipality of residence of the official sought to be recalled, or if there is no clerk, with the chief executive officer of the municipality.

Each filing officer shall forward a copy of the reporting forms required by this Code section to each candidate or public officer holding elective office required to file such report within a reasonable time period prior to each filing.

(g) Any campaign committee which accepts contributions or makes expenditures designed to bring about the approval or rejection by the voters of a proposed constitutional amendment or a state-wide referendum shall file a campaign contribution disclosure report with the Secretary of State 15 days prior to the date of the election and shall file a final report prior to December 31<sup>st</sup> of the year in which the election is held.

(h) In any county in which the county board of elections does not maintain an office open to the public during normal business hours for five days a week, the reports required by this Code section shall be filed in the office of the judge of the probate court of that county.

- (i) (1) Any person elected to a public office who is required to file campaign contribution disclosure reports pursuant to this article shall, upon leaving public office with excess contributions, be required to file a supplemental campaign contribution disclosure report no later than December 31<sup>st</sup> of each year until such contributions are expended in a campaign for elective office or used as provided in subsection (b) of Code Section 21-5-33.
- (2) Any person who is an unsuccessful candidate in an election and who is required to file campaign contribution disclosure reports pursuant to this article shall, upon having excess contributions from such campaign, be required to file a supplemental campaign contribution disclosure report no later than December 31<sup>st</sup> of each year until such contributions are expended in a campaign for elective office or used as provided in subsection (b) of Code Section 21-5-33. Any unsuccessful candidate in an election who is required to file campaign contribution disclosure reports pursuant to this article and who receives contributions following such election to retire debts incurred in such campaign for elective office shall be required to file a supplemental campaign contribution disclosure report no later than December 31<sup>st</sup> of each year until such unpaid expenditures from such campaign are satisfied.

(j) Notwithstanding any other provision of this chapter to the contrary, soil and water conservation district supervisors elected pursuant to Article 2 of Chapter 6 of Title 2, the "Soil and Water Conservation Districts Law" shall not be required to file campaign contribution disclosure reports under this Code section.

(k) In addition to other penalties provided under this chapter, an additional filing fee of \$25.00 shall be imposed for each report that is filed late. In addition, a filing fee of \$50.00 shall be imposed on the fifteenth day after the due date if the report has still not been filed. Provided, however, a 15 day extension period shall be granted on the final report.

### **21-5-35. Acceptance of Contributions during Legislative Sessions.**

(a) No member of the General Assembly or that member's campaign committee or public officer elected state-wide or campaign committee of such public officer shall accept a contribution during a legislative session.

(b) Subsection (a) of this Code section shall not apply to:

- (1) The receipt of a contribution which is returned with reasonable promptness to the donor or the donor's agent;
- (2) The receipt and acceptance during a legislative session of a contribution consisting of proceeds from a dinner, luncheon, rally, or similar fundraising event held prior to the legislative session, or
- (3) A judicial officer elected state-wide or campaign committee of such judicial officer.

### **21-5-36. Disposition of Reports; Handling of Complaints and Violations.**

(a) It shall be the duty of the filing officer to make the campaign contribution disclosure reports available for public inspection and copying during regular office hours commencing as soon as practicable after such filing. Such filing officer shall have the authority to charge a fee for copying such reports not to exceed the actual cost of such copying. The filing officer shall preserve such reports for a period of five years from the date upon which they are received. A filing officer shall notify the commission in writing of:

- (1) The names of all candidates and offices sought in a special election, when held at a time other than election dates scheduled by law or charter, within ten days of the close of the qualification period; and
- (2) Within ten days after the date a report is due, the names and addresses of candidates or campaign committee which have not filed required campaign disclosure reports as required by law in the election in question.

A filing officer shall immediately notify the commission when such officer shall receive any complaint against any candidate offering for any office specified in Code Section 21-5-2 or against any campaign committee and shall forward the complaint to the commission and shall retain a copy of the complaint. In the event any complaint is against a county or municipal candidate, a copy of the reports filed by such candidate shall be forwarded to the commission along with the complaint.

(b) The commission or filing officer receiving original reports has the duty to inspect each report filed with such commission or officer by candidates or by a campaign committee for conformity with the law and to notify the candidate or campaign committee immediately if the report does not conform with the law, is unsigned, or is otherwise in technical violation of filing requirements.

## APPENDIX C. ETHICS IN GOVERNMENT ACT

### ARTICLE 2A. CONTRIBUTIONS TO CANDIDATES FOR PUBLIC OFFICE

#### 21-5-40. Definitions.

As used in this article, the term:

(1) "*Affiliated Committees*" means any two or more political committees (including a separate segregated fund) established, financed, maintained, or controlled by the same corporation, labor organization, person, or group of persons, including any parent, subsidiary, branch, division, department, or local unit thereof.

(2) "*Affiliated Corporation*" means with respect to any corporation any other corporation related thereto: as a parent corporation; as a subsidiary corporation; as a sister corporation; by common ownership or control; or by control of one corporation by the other.

(3) "*Corporation*" means any business or nonprofit corporation organized under the laws of this state, any other state, or the United States.

(4) "*Election Year*" shall be construed and applied separately for each elective office and means for each elective office the calendar year during which a regular or special election to fill each office is held.

(4.1) "*Non-election Year*" shall be construed and applied separately for each elective office and means for each elective office any calendar year during which there is no regular or special election to fill such office.

(5) "*Person*" means an individual.

(6) "*Political Committee*" means: (a) any partnership, committee, club, association, organization, party caucus of the House of Representatives or the Senate, or similar entity (other than a corporation) or any other group of persons or entities which makes a contribution; or (b) any separate segregated fund.

(6.1) "*Political Party*" means any political party as that term is defined in paragraph (21) of Code Section 21-2-3, as amended; provided, however, that for purposes of this article, local, state, and national committees shall be separate political parties.

(6.2) "*Public Office*" means the office of each elected public officer as specified in paragraph (15) of Code Section 21-5-3.

(7) "*Separate Segregated Fund*" means a fund which is established, administered, and used for political purposes by a corporation, labor organization, membership organization, or cooperative and to which the corporation, labor organization, membership organization, or cooperative solicits contributions.

#### 21-5-41. Maximum Allowable Contribution by Persons or Partnerships.

(a) No person shall during the course of any non-election year make contributions to any candidate for state-wide elected office which in the aggregate for that year exceed \$1,000.00. No person shall during the course of any election year after the year 1994 make contributions to any candidate for state-wide elected office which in the aggregate for that year exceed \$5,000.00. No

person shall during the course of the 1994 election year make contributions to any candidate for state-wide elected office which in the aggregate for that year exceed \$7,500.00.

(a.1) No person shall during the course of any non-election year make contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for that year exceed \$1,000.00. No person shall during the course of any election year make contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for that year exceed \$2,000.00.

(b) A contribution by a partnership shall be deemed to have been made pro rata by the partners as individuals for purposes of this Code section, as well as by the partnership into for purposes of Code Section 21-5-43.

(c) The limits established by this Code section shall not apply to a loan or other contribution made to a campaign committee or candidate by the candidate or a member of the candidate's immediate family.

(d) No person shall for any election make contributions to any person or campaign committee for the purpose of influencing voter approval or rejection of a proposed constitutional amendment or state-wide referendum which in aggregate exceed \$2,500.00.

(e) No person shall for any election make contributions to any person or campaign committee for the purpose of influencing voter approval or rejection of a proposed question which is to appear on the ballot in any county or municipal election which in the aggregate exceed \$1,000.00.

#### **21-5-42. Maximum Allowable Contribution by Corporations.**

(a) No corporation shall during the course of any non-election year make contributions to any candidate for state-wide elected office which in the aggregate for that calendar year, together with any contributions to the same candidate in the same year by an affiliated corporation, exceed \$1,000.00. No corporation shall during the course of any election year after the year 1994 make contributions to any candidate for state-wide elected office which in the aggregate for that calendar year, together with any contributions to the same candidate in the same year by an affiliated corporation, exceed \$5,000.00. No corporation shall during the course of the 1994 election make contributions to any candidate for state-wide elected office which in the aggregate for that calendar year, together with any contributions to the same candidate in the same year by an affiliated corporation, exceed \$7,500.00.

(b) No corporation shall during the course of any non-election year make contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for that calendar year, together with any contributions to the same candidate in the same year by any affiliated corporations, exceed \$1,000.00. No corporation shall during the course of any election year make contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for that calendar year, together with any contribution to the same candidate in the same year by any affiliated corporations, exceed \$2,000.00.

(c) The limits established by this Code section shall not apply to a bona fide loan made to a candidate or campaign committee by a state or federally chartered financial institution or a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation if:

- (1) Such loan is made in the normal course of business with the expectation on the part of all parties that such loan shall be repaid; and

(2) Such loan is based on the credit worthiness of the candidate and the candidate is personally liable for the repayment of the loan.

(d) No corporation shall for any election make contributions to any person or campaign committee for the purpose of influencing voter approval or rejection of a proposed constitutional amendment or state-wide referendum which in the aggregate, together with any contributions to the same person or campaign committee for the same election by any affiliated corporations, exceed \$2500.00.

(e) No corporation shall for any election make contributions to any person or campaign committee for the purpose of influencing voter approval or rejection of a proposed question which is to appear on the ballot in any county or municipal election which in the aggregate, together with any contributions to the same person or campaign committee for the same election by an affiliated corporations, exceed \$1,000.00.

#### **21-5-43. Maximum Allowable Contribution by Political Committees.**

(a) No political committee shall during the course of any non-election year make contribution to any candidate for state-wide elected office which in the aggregate for that calendar year, together with any contributions to the same candidate in the same year by any affiliated political committees, exceed \$1,000.00. No political committee shall during the course of any office which in the aggregate for that calendar year, together with any contributions to the same candidate in the same year by an affiliated political committees, exceed \$500.00. No political committee shall during the course of the 1994 election year make contributions to any candidate for state-wide elected office which in the aggregate for that calendar year, together with any contributions to the same candidate in the same year by any affiliated political committees, exceed \$7,500.00.

(b) No political committee shall during the course of any non-election year make contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for that calendar year, together with any contributions to the same candidate in the same year by an affiliated political committee, exceed \$1,000.00. No political committee shall during the course of any election year make contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for that calendar year, together with any contributions to the same candidate in the same year by any affiliated political committees, exceed \$2,000.00.

(c) No political committee shall for any election make contributions to any person or campaign committee for the purpose of influencing voter approval or rejection of a proposed constitutional amendment or state-wide referendum which in the aggregate, together with any contributions to the same person or campaign committee for the same election by any affiliated political committees, exceed \$2,500.00.

(d) No political committee shall for any election make contributions to any person or campaign committee for the purpose of influencing voter approval or rejection of a proposed question which is to appear on the ballot in any county or municipal election which in the aggregate, together with any contributions to the same person or campaign committee for the same election by any affiliated political committees, exceed \$1,000.00.

### **21-5-43.1. Maximum Allowable Contribution by Political Parties.**

(a) No political party shall during the course of any non-election year make contributions to any candidate for state-wide elected office which in the aggregate for that calendar year exceed \$1,000.00. No political party shall during the course of any election year after the year 1994 make contributions to any candidate for state-wide elected office which in the aggregate for that calendar year exceed \$5,000.00. No political party shall during the course of the 1994 election year make contributions to any candidate for state-wide elected office which in the aggregate for that calendar year exceed \$7,500.00.

(b) No political party shall during the course of any non-election year make contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for that calendar year exceed \$1,000.00. No political party shall during the course of any election year make contributions to any candidate for the General Assembly or public office other than state-wide elected office which in the aggregate for that calendar year exceed \$2,000.00.

(c) The limitations provided for in this Code section shall not include contributions or expenditures made by a political party in support of a party ticket or a group of named candidates.

(d) No political party shall for any election make contributions to any person or campaign committee for the purpose of influencing voter approval or rejection of a proposed constitutional amendment or state-wide referendum which in the aggregate exceed \$2,500.00.

(e) No political party shall for any election make contributions to any person or campaign committee for the purpose of influencing voter approval or rejection of a proposed question which is to appear on the ballot in any county or municipal election which in the aggregate exceed \$1,000.00.

### **21-5-44. Contribution to Campaign Committee deemed Contribution to Candidate; Rules for Construction.**

For purposes of this article, a contribution to a campaign committee of a candidate for any public office shall be deemed to be a contribution to such candidate. If during any calendar year there occur both a special election and a general election for the same public office and if the same person is a candidate for election at both such special election and such general election, then this Code section shall apply. Where this Code section applies, a person, corporation, political committee, or political party may contribute up to the maximum amount otherwise allowable under this article to such person or such person's campaign committee for the purpose of influencing such candidate's election at the special election; and the same person, corporation, political committee, or political party may contribute up to the maximum amount otherwise allowable under this article for the purpose of influencing such candidate's election at the general election. This Code section shall be construed according to the following rules:

(1) It is the general intent of this Code section to allow a person who is a candidate for election at both a special election and a general election in the same calendar year to receive up to but no more than twice the amount of contributions which could otherwise be received from any one donor during the year; and

(2) Seeking nomination at a special primary or general primary shall be considered as seeking election at the ensuing special or general election for the purpose of determining whether a person is a candidate for election at both the special election and the general election and allowing the application of this Code section; but seeking election at only a single primary and its ensuing election shall not bring this Code section into effect.



## APPENDIX C. ETHICS IN GOVERNMENT ACT

### ARTICLE 3. FINANCIAL DISCLOSURE STATEMENTS

#### 21-5-50. Filing by Public Officers; Filing by Candidates for Public Office.

- (a) (1) Except as modified in subsection (c) of this Code section with respect to candidates for state-wide elected public office, each public officer, as defined in subparagraphs (a) through (e) of paragraph (15) of Code Section 21-5-3, shall file with the Secretary of State not before the first day of January nor later than July 1<sup>st</sup> of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year; and each person who qualifies as a candidate for election as a public officer as defined in subparagraphs (a) through (e) of paragraph (15) of Code Section 21-5-3, shall file with the Secretary of State, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.
- (2) Each public officer, as defined in subparagraph (f) through paragraph (15) of Code Section 21-5-3, shall file with the election superintendent of the county of election of such public officer, not before the first day of January nor later than July 1<sup>st</sup> of each year in which such public officer holds office other than the year in which an election is held for such public office, a financial disclosure statement for the preceding calendar year. Each person who qualifies as a candidate for election as a public office, as defined in subparagraph (f) through paragraph (15) of Code Section 21-5-3, shall file with the election superintendent of the county of election a financial disclosure statement for the preceding calendar year.
- (3) Each public officer, as defined in subparagraph (g) of paragraph (15) of Code Section 21-5-3, shall file with the municipal clerk of the municipality of election, or, if there is no clerk, with the chief executive officer of such municipality, not before the first day of January nor later than July 1<sup>st</sup> of each year in which such public officer holds office other than the year in which an election is held for such public officer, a financial disclosure statement for the preceding calendar year. Each person who qualifies as a candidate for election as a public officer, as defined in subparagraph (g) of paragraph (15) of Code Section 21-5-3, shall file with municipal clerk of the municipality of election or, if there is no clerk, with the chief executive officer of such municipality, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.
- (4) The filing officer shall review each financial disclosure statement to determine that such statement is in compliance with the requirements of this chapter.
- (5) A public officer shall not, however, be required to file such a financial disclosure statement for the preceding calendar year in a year in which there occurs qualifying for election to succeed such public officer, if such public officer does not qualify for nomination for election to succeed himself or herself or for election to any other public office subject to this chapter. For purposes of this subsection, a public officer shall not be deemed to hold office in a year in which the public officer holds office for less than 15 days.

(b) A financial disclosure statement shall be in the form specified by the commission and shall identify:

- (1) Each monetary fee or honorarium of \$101.00 or less which is accepted by a public officer from speaking engagements, participation in seminars, discussion panels, or other activities which directly relate to the official duties of the public officer or the office of the public officer, with a statement identifying the fee or honorarium accepted and the person from whom it was accepted;
  - (2) All fiduciary positions held by the candidate for public office or the public officer, with a statement of the title of each such position, the name and address of the business entity, and the principal activity of the business entity;
  - (3) The name, address, and principal activity of any business entity and the office held by and the duties of the candidate for public office or public officer within such business entity as of December 31<sup>st</sup> of the covered year in which such candidate or officer or officer has a direct ownership interest with interest:
    - (a) Is more than 20 percent of the total interests in such business; or
    - (b) Has a net fair market value of more than \$20,000.00;
  - (4) Each tract of real property in which the candidate for public office or public officer has a direct ownership interest as of December 31<sup>st</sup> of the covered year when that interest has a net fair market value in excess of \$20,000.00. As used in this paragraph, the term "net fair market" value means the appraised value of the property for ad valorem tax purposes less any indebtedness thereon. The disclosure shall contain the county and state and general location therein where the property is located.
  - (5) All annual payments in excess of \$20,000.00 received by the public officer or any business entity identified in paragraph (3) of this subsection from the state, any agency, department, commission, or authority created by the state, and authorized and exempted from disclosure under Code Section 45-10-25, and the agency, department, commission, or authority making the payments, and the general nature of the consideration rendered for the source of the payments; and
  - (6) No form prescribed by the commission shall require more information or specify more than provided in the several paragraphs of this Code section with respect to what is required to be disclosed.
- (c) (1) Each person who qualifies with a political party as a candidate for party nomination to a public office elected state-wide (including an incumbent public officer elected state-wide qualifying to succeed himself) shall file with the Secretary of State, not later than seven days after so qualifying, a financial disclosure statement. Each person who qualifies as a candidate for election to a public office elected state-wide through a nomination petition or convention shall likewise file a financial disclosure statement not later than seven days after filing his notice of candidacy. Such financial disclosure statement shall comply with the requirements of subsection (a) and (b) of this Code section and shall in addition identify, for the preceding five calendar years:
- (a) Each transaction or transactions which aggregate \$9,000.00 or more in a calendar year in which the candidate (whether for himself or on behalf of any business) or any business in which such candidate or any member of his family has a substantial interest or is an officer of such business has transacted business with the government

of the State of Georgia, the government of any political subdivision of the State of Georgia, or any agency of any such government; and

- (b) Each transaction or transactions which aggregate \$9,000.00 or more in a calendar year in which the candidate or any business in which such candidate or any member of his family has a substantial interest or is an officer of such business received any income of any nature from any person who was at the time of such receipt of income represented by a lobbyist registered with the commission pursuant to Article 4 of this chapter.
- (2) The financial disclosure statement required by paragraph (1) of this subsection shall include an itemized list of the transactions required to be reported, including the date of, dollar amount of, and parties to each such transaction. However, with respect to any transaction of a privileged nature only the total amount of such transactions shall be required to be reported, and names, dates, amounts of individual transactions, and other identifying data may be omitted; and for this purpose “transactions of a privileged nature” shall include transactions between attorney and client, transactions between psychiatrist and patient, transactions between physician and patient, and any other transactions which are by law of a similar privileged and confidential nature.
  - (3) The financial disclosure statement required by paragraph (1) of this subsection shall be accompanied by a financial statement of the candidate’s financial affairs for the calendar year prior to the year in which the election is held and the first quarter of the calendar year in which the election is held.
  - (4) (A) As used in this subsection, the term:
    - (i) “*Agency*” means any agency, authority, department, board, bureau, commission, committee, office, or instrumentality of the State of Georgia or any political subdivision of the State of Georgia.
    - (ii) “*Financial Statement*” means a statement of a candidate’s financial affairs in a form substantially equivalent to the short form financial statement required for bank directors under the rules of the Department of Banking and Finance.
    - (iii) “*Substantial Interest*” means the direct or indirect ownership of 10 percent or more of the assets or stock of any business.
  - (B) As used in this subsection, the term:
    - (i) “*Member of the Family*” includes the candidate’s spouse and dependent children; and
    - (ii) “*Person*” and “*transact business*” shall have the meanings specified in Code Section 45-10-20.
  - (5) Notwithstanding any other provisions of this subsection, if, due to a special election or otherwise, a person does not qualify as a candidate for nomination or election to public office until after the filing date otherwise applicable, such person shall make the filings required by this subsection within seven days after so qualifying.

## APPENDIX C. ETHICS IN GOVERNMENT ACT

### ARTICLE 4. CODE OF ETHICS

#### **21-5-60. Purpose.**

It is the policy of the City of Elberton that the proper operation and administration of the City requires that its officials, employees, appointees, and designates conducting official City business be independent, impartial, and responsible to the people; that all people be treated fairly; that public office and public service not be used for personal gain; that in the conduct of official City business there be an environment of honest, openness and integrity; and that the public have confidence in the integrity of its government.

In furtherance of this stated purpose, the public interest mandates that the City protect against conflicts of interest by establishing appropriate ethical standards with respect to the conduct of its officials, employees, appointees, and volunteers in circumstances in which a conflict may exist or appear to exist. The intent set forth herein is to clarify standards of ethical conduct that shall be applicable to the officials of the City of Elberton in the discharge of their public duties and to foster and develop a tradition of responsible, honorable, ethical and effective public service.

*(Code 2006, Ord 2136)*

#### **21-5-61. Definitions.**

The following words, terms, and phrases, as used herein, shall have the meanings ascribed to them in this section, except where the context clearly indicates that a different meaning is intended:

*“City Official”* means the Mayor, members of the city council, city employees, members of city committees and boards, its appointed officials and its designated representatives, engaging in official City business with the approval of the mayor and council.

*“Confidential Information”* means any information which by law or practice is not available to the general public.

*“Decision”* means any ordinance, resolution, contract, franchise, formal action or other matter voted on by the City Council or any other City board or commission, as well as the discussions or deliberations of the Council, board, or commission which can or may lead to a vote or formal action by that respective body.

*“Entity”* means a sole proprietorship, partnership, limited partnership, firm, corporation, professional corporation, holding company, joint stock company, receivership, trust or any other entity recognized by law through which business may be conducted.

*“Incidental interest”* means an interest in a person, entity or property which is not a substantial interest and which has insignificant value.

*“Immediate family”* means spouse, children, parents and siblings of elected officials.

*“Remote interest”* means an interest of a person or entity, including a city official, who would be affected in the same way as the general public. The interest of a Council Member in the property tax rate, general city fees, city utility charges, or a comprehensive zoning ordinance or similar decisions incidental to the extent that the council member would be affected in common with the general public.

*“Substantial interest”* means a known interest, either directly or through a member of the immediate family, in another person or entity:

- (1) The interest is ownership of five percent or more of the voting stock, shares or equity of the entity or ownership of \$5,000 or more of the equity or market value of the entity; or
- (2) Funds received by the person from the other person or entity either during the previous 12 months of the previous calendar year equaled or exceeded \$5,000 in payment for goods, products, or nonprofessional services, or ten percent of the recipient’s gross income during that period, whichever is less.
- (3) The person serves as a corporate officer or member of the board of directors or other governing board of the for-profit entity other than a corporate entity owned or created by the City Council; or
- (4) The person is a creditor, debtor, or guarantor of the other person or entity in an amount of \$5,000 or more. Substantial interest in real property means an interest in real property which is an equitable or legal ownership with a market value of \$5,000 or more.

(Code 2006, Ord 2136)

**21-5-62. Conflict of Interest; Prohibited Conduct.**

- (a) No city official shall use such position to secure special privileges or exemptions for such person or others, or to secure confidential information for any purpose other than official responsibilities.
- (b) No city official, in any matter before the council, board or commission in which he/she has a substantial interest, shall fail to disclose for the common good for the record such interest prior to any discussion or vote.
- (c) No city official shall act as an agent or attorney for another in any matter before the council or any board or commission.
- (d) No city official shall directly or indirectly receive, or agree to receive, any compensation, gift, reward, or gratuity in any matter or proceeding connected with, or related to, the duties of his office except as may be provided by law.
- (e) No city official shall enter into any contract with the city except as specifically authorized by state statutes. Any Council Member or member of a board or commission who has a proprietary interest in an agency doing business with the city shall make known that interest to the council.
- (f) All public funds shall be disposed of in accordance with state law.
- (g) Public property shall be disposed of in accordance with state law.
- (h) No city official shall solicit or accept other employment to be performed or compensation to be received while still a city official or employee, if the employment or compensation could reasonably be expected to impair in judgment or performance of city duties.
- (i) If a city official accepts or is soliciting a promise of future employment from any person or entity who has a substantial interest in a person, entity or property which would be affected by any decision upon which the official might reasonably be expected to act, investigate, advise, or make a recommendation, the official shall disclose the fact to the board or commission on which he serves or to his supervisor and shall take no further action on matters regarding the potential future employer.
- (j) No city official shall use city facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.
- (k) No city official or employee shall grant or make available to any person any consideration, treatment, advantage, or favor beyond that which it is the general practice to grant or make available to the public at large.
- (l) No city official may participate in a vote or decision on a matter affecting a person, entity, or property in which the official or employees has a substantial interest; in addition, no city official or employee who serves as a corporate officer or member of the board of directors of a

nonprofit entity may participate in a vote or decision regarding funding by or through the city of the entity. Where the interest of a city official or employee in the subject matter of a vote or decision is remote or incidental, the city official or employee may participate in the vote or decision and need not disclose the interest.

*(Code 2006, Ord 2136)*

#### **21-5-63. Reasonable Interpretation.**

The standards of conduct set forth herein shall be understood and interpreted in a way that will not unreasonably frustrate or impeded a desire to seek public office by those best qualified to serve. Accordingly, city officials should not, except as otherwise provided by law, be denied the opportunity available to all citizens to acquire and maintain private, economic and other interests except in those circumstances where a conflict would necessarily result by virtue of the standards of conduct set forth herein.

*(Code 2006, Ord 2136)*

#### **21-5-64. Penalties for Violation.**

Any persons violating any provision of this policy are subject to:

- (1) Written and oral reprimand by the mayor and council.
- (2) A fine of not less than \$50 nor more than \$300, as may be imposed in the discretion of the mayor and council.
- (3) Request for resignation

*(Code 2006, Ord 2136)*