~~Indicates Matter Stricken~~

Indicates New Matter

INTRODUCED

February 25, 2015

**H. 3722**

Introduced by Reps. Lucas, Bingham, Pope, McEachern, Ballentine, Simrill, Funderburk, G.M. Smith, W.J. McLeod, Yow, Knight, Johnson, Clyburn, Duckworth, Clemmons, Stavrinakis, Norrell, M.S. McLeod, Quinn, Southard, Corley, Alexander, Allison, Anderson, Anthony, Bales, Bamberg, Bannister, Bedingfield, Bernstein, Bowers, Bradley, G.A. Brown, R.L. Brown, Burns, Chumley, Clary, Cole, Collins, Crosby, Daning, Delleney, Dillard, Douglas, Erickson, Felder, Finlay, Forrester, Gagnon, Gambrell, George, Gilliard, Goldfinch, Hamilton, Hardee, Hardwick, Hart, Hayes, Henderson, Henegan, Herbkersman, Hicks, Hiott, Hixon, Hodges, Horne, Hosey, Howard, Huggins, Jefferson, Kennedy, King, Kirby, Limehouse, Loftis, Long, Lowe, Mack, McKnight, Merrill, Mitchell, D.C. Moss, Murphy, Nanney, Neal, Newton, Norman, Ott, Parks, Pitts, Putnam, Ridgeway, Riley, Rivers, Robinson‑Simpson, Rutherford, Sandifer, G.R. Smith, J.E. Smith, Sottile, Spires, Stringer, Tallon, Taylor, Thayer, Tinkler, Toole, Weeks, Wells, Whipper, White, Williams, Willis and Govan

S. Printed 2/25/15--H.

Read the first time February 25, 2015.

**A** **BILL**

TO AMEND SECTION 8‑13‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE ETHICS COMMISSION AND ITS MEMBERSHIP, SO AS TO RECONSTITUTE THE MEMBERSHIP OF THE COMMISSION EFFECTIVE JULY 1, 2015, TO CONSIST OF FOUR MEMBERS APPOINTED BY THE GOVERNOR, FOUR MEMBERS ELECTED BY THE SUPREME COURT, TWO MEMBERS ELECTED BY THE HOUSE OF REPRESENTATIVES, AND TWO MEMBERS ELECTED BY THE SENATE, RESPECTIVELY, TO PROVIDE FOR THE QUALIFICATIONS OF THESE MEMBERS, TO PROVIDE FOR OFFICERS OF THE COMMISSION, AND TO PROVIDE FOR THE MEMBERS’ TERMS OF OFFICE AND MANNER OF THEIR REMOVAL UNDER CERTAIN CONDITIONS; TO AMEND SECTION 8‑13‑320, AS AMENDED, RELATING TO THE DUTIES, POWERS, AND PROCEDURES OF THE STATE ETHICS COMMISSION, SO AS TO REVISE THESE DUTIES, POWERS, AND PROCEDURES INCLUDING PROVISIONS TO VEST WITH THE COMMISSION THE ADDITIONAL RESPONSIBILITY TO INITIATE OR RECEIVE COMPLAINTS AGAINST MEMBERS OF THE GENERAL ASSEMBLY, ITS STAFF, AND CANDIDATES FOR ELECTION TO THE GENERAL ASSEMBLY, TO PROVIDE FOR THE INVESTIGATION AND PROCESSING OF COMPLAINTS AGAINST GENERAL ASSEMBLY MEMBERS, STAFF, AND CANDIDATES PURSUANT TO SPECIFIED PROCEDURES AND FOR THE REFERRAL OF SUBSTANTIVE COMPLAINTS TO THE APPROPRIATE HOUSE OR SENATE ETHICS COMMITTEES FOR DISPOSITION TOGETHER WITH THE ETHICS COMMISSION’S RECOMMENDATION AS TO WHETHER OR NOT THERE IS PROBABLE CAUSE TO BELIEVE A VIOLATION HAS OCCURRED; TO AMEND SECTION 8‑13‑350, RELATING TO THE ETHICS BROCHURE PROVIDED TO PUBLIC OFFICIALS, PUBLIC MEMBERS, AND PUBLIC EMPLOYEES, SO AS TO DIRECT THE STATE ETHICS COMMISSION TO UPDATE THE BROCHURE’S CONTENTS AND REQUIRE DOCUMENTATION OF ITS RECEIPT BY DESIGNATED INDIVIDUALS; TO AMEND SECTIONS 8‑13‑530 AND 8‑13‑540, BOTH AS AMENDED, RELATING TO THE DUTIES, FUNCTIONS, AND PROCEDURES OF THE HOUSE AND SENATE ETHICS COMMITTEES, SO AS TO REVISE THESE DUTIES, FUNCTIONS, AND PROCEDURES IN ORDER TO BE CONSISTENT WITH THE ABOVE PROVISIONS AND TO MAKE OTHER CHANGES; BY ADDING SECTION 8‑13‑545 SO AS TO AUTHORIZE THE HOUSE OR SENATE ETHICS COMMITTEES TO ISSUE FORMAL ADVISORY OPINIONS AND PROVIDE FOR THEIR EFFECT AND APPLICABILITY; AND BY ADDING ARTICLE 6 TO CHAPTER 13, TITLE 8 SO AS TO CREATE A COMMISSION ON JUDICIAL CONDUCT, AND TO PROVIDE FOR ITS JURISDICTION, COMPOSITION, POWERS, DUTIES, AND RESPONSIBILITIES; BY ADDING CHAPTER 28 TO TITLE 16 ENTITLED “ETHICS, CRIMINAL PENALTIES” SO AS TO INCORPORATE BY REFERENCE THE DEFINITIONS CONTAINED IN SECTIONS 8‑13‑100 AND 8‑13‑1300, TO MOVE CERTAIN LANGUAGE RELATING TO ETHICS VIOLATIONS AND CRIMINAL PENALTIES FOR A VIOLATION, AND TO CREATE SIMILAR OFFENSES CONTAINED IN CHAPTER 28, TITLE 16 WITH REVISIONS; TO AMEND SECTION 8‑13‑780, AS AMENDED, RELATING TO REMEDIES FOR BREACHES OF ETHICAL STANDARDS BY PUBLIC OFFICIALS, MEMBERS, OR EMPLOYEES, SO AS TO REVISE AND EXPAND THE REMEDIES FOR A BREACH OF CERTAIN ETHICAL STANDARDS; TO AMEND SECTION 8‑13‑790, AS AMENDED, RELATING TO RECOVERY OF AMOUNTS RECEIVED BY OFFICIALS OR EMPLOYEES IN BREACH OF ETHIC STANDARDS, SO AS TO DELETE THE REFERENCE TO REGULATIONS; TO AMEND SECTION 8‑13‑1510, AS AMENDED, RELATING TO CIVIL AND CRIMINAL PENALTIES FOR THE LATE FILING OF OR FAILURE TO FILE A REQUIRED ETHICS REPORT OR STATEMENT, SO AS TO DELETE THE CRIMINAL PENALTIES AFTER THE MAXIMUM CIVIL PENALTY HAS BEEN LEVIED; BY ADDING SECTION 8‑13‑1515 SO AS TO CREATE THE NEW OFFENSE OF WILFUL FAILURE TO FILE A REQUIRED STATEMENT OR REPORT IN AN EFFORT TO CONCEAL A VIOLATION OF THE ETHICS CHAPTER AND TO PROVIDE A PENALTY; TO AMEND SECTION 8‑13‑1520, AS AMENDED, RELATING TO VIOLATIONS OF CHAPTER 13, TITLE 8, SO AS TO MAKE PROVISIONS FOR WILFUL VIOLATIONS; BY ADDING SECTION 8‑13‑1525 SO AS TO REVISE AND EXPAND THE REMEDIES FOR A VIOLATION OF CERTAIN ETHICAL STANDARDS; TO AMEND SECTION 8‑13‑320, AS AMENDED, RELATING TO THE DUTIES, POWERS, AND PROCEDURES OF THE STATE ETHICS COMMISSION, SO AS TO PROVIDE FOR THE ASSESSMENT OF CIVIL PENALTIES; TO AMEND SECTION 2‑17‑140, RELATING TO THE PENALTIES FOR WILFULLY FILING A GROUNDLESS COMPLAINT, SO AS TO PROVIDE THAT A CIVIL PENALTY MAY BE ASSESSED IN ADDITION TO A CRIMINAL PENALTY; TO AMEND SECTION 8‑13‑1120, AS AMENDED, RELATING TO CONTENTS OF STATEMENTS OF ECONOMIC INTERESTS, SO AS TO REVISE THE FORM AND REQUIRED CONTENTS OF STATEMENTS OF ECONOMIC INTERESTS; TO AMEND SECTION 8‑13‑1300, AS AMENDED, RELATING TO DEFINITIONS PERTAINING TO CAMPAIGN PRACTICES, SO AS TO REVISE CERTAIN DEFINITIONS; TO AMEND SECTION 8‑13‑1314, AS AMENDED, RELATING TO CAMPAIGN CONTRIBUTION LIMITS AND RESTRICTIONS, SO AS TO PROHIBIT CONTRIBUTIONS FROM CERTAIN NONCANDIDATE COMMITTEES; TO AMEND SECTION 8‑13‑1340, AS AMENDED, RELATING TO RESTRICTIONS ON CONTRIBUTIONS BY ONE CANDIDATE TO ANOTHER AND COMMITTEES ESTABLISHED, FINANCED, MAINTAINED, OR CONTROLLED BY A CANDIDATE, SO AS TO DELETE THE CONTRIBUTION RESTRICTION EXCEPTION FOR CERTAIN TYPES OF COMMITTEES; BY ADDING SECTION 8‑13‑1313 SO AS TO REQUIRE A PERSON WHO IS NOT A COMMITTEE AND WHO MAKES AN INDEPENDENT EXPENDITURE IN AN AGGREGATE AMOUNT OR VALUE IN EXCESS OF FIVE HUNDRED DOLLARS DURING A CALENDAR YEAR OR MAKES AN ELECTIONEERING COMMUNICATION TO FILE A REPORT OF SUCH EXPENDITURE OR COMMUNICATION WITH THE STATE ETHICS COMMISSION; TO AMEND SECTION 8‑13‑1300, AS AMENDED, RELATING TO DEFINITIONS PERTAINING TO CAMPAIGN PRACTICES, SO AS TO DEFINE “ELECTIONEERING COMMUNICATION”; TO AMEND SECTION 8‑13‑1320, RELATING TO THE ATTRIBUTION OF CAMPAIGN CONTRIBUTIONS TO SPECIFIC TYPES OF ELECTIONS, SO AS TO REVISE THE MANNER IN WHICH CAMPAIGN CONTRIBUTIONS ARE ATTRIBUTED TO A PRIMARY ELECTION AND TO A PRIMARY ELECTION RUNOFF; TO AMEND SECTION 8‑13‑100, AS AMENDED, RELATING TO THE DEFINITIONS OF “CANDIDATE” FOR PURPOSES OF THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT, SO AS TO SPECIFY THAT A “CANDIDATE” IS ALSO A PERSON THAT MAINTAINS AN OPEN BANK ACCOUNT CONTAINING CONTRIBUTIONS; TO AMEND SECTION 8‑13‑1300, AS AMENDED, RELATING TO THE DEFINITIONS OF “CANDIDATE” FOR PURPOSES OF THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT, SO AS TO SPECIFY THAT A “CANDIDATE” IS ALSO A PERSON THAT MAINTAINS AN OPEN BANK ACCOUNT CONTAINING CONTRIBUTIONS; TO AMEND SECTION 8‑13‑1302, AS AMENDED, RELATING TO THE MAINTENANCE OF RECORDS OF CONTRIBUTIONS, SO AS TO AUTHORIZE THE APPROPRIATE SUPERVISORY OFFICE TO REQUEST IN WRITING THE DISCLOSURE OF CERTAIN MANDATORY RECORDS FOR THE PURPOSE OF VERIFYING CAMPAIGN DISCLOSURE FORMS; TO AMEND SECTION 2‑17‑90, RELATING TO ACTS PROHIBITED OF LOBBYISTS’ PRINCIPALS, SO AS TO DELETE THE SPECIFIC AUTHORIZATION FOR AMERICAN LEGISLATIVE EXCHANGE COUNCIL CONVENTIONS AND CONFERENCES; TO AMEND SECTION 8‑13‑1348, AS AMENDED, RELATING TO THE USE OF CAMPAIGN FUNDS FOR PERSONAL EXPENSES, SO AS TO CLARIFY THE TYPE OF PROHIBITED EXPENSES; TO AMEND SECTION 8‑13‑1308, AS AMENDED, RELATING TO THE CONTENTS OF CERTIFIED CAMPAIGN REPORTS OF CANDIDATES AND COMMITTEES, SO AS TO REQUIRE A CAMPAIGN REPORT TO BE FILED SEVENTY‑TWO HOURS BEFORE AN ELECTION SHOWING CONTRIBUTIONS OF MORE THAN ONE HUNDRED DOLLARS AND EXPENDITURES TO OR BY THE CANDIDATE OR COMMITTEE FOR THE PERIOD COMMENCING AT LEAST TWENTY DAYS BEFORE THE ELECTION AND ENDING SEVENTY‑TWO HOURS BEFORE THE ELECTION; TO AMEND SECTION 8‑13‑1318, RELATING TO THE ACCEPTANCE OF CONTRIBUTIONS TO RETIRE CAMPAIGN DEBT, SO AS TO REQUIRE THAT CONTRIBUTIONS RECEIVED PURSUANT TO THIS SECTION MUST BE USED FOR THE SOLE PURPOSE OF RETIRING CAMPAIGN DEBT; BY ADDING SECTION 8‑13‑756 SO AS TO PROVIDE THAT CERTAIN PROVISIONS PERTAINING TO USE OF OFFICIAL POSITION OR OFFICE FOR FINANCIAL GAIN, REPORTING OF PARTICULAR GIFTS, RESTRICTIONS ON FUTURE EMPLOYMENT AND RELATED PROVISIONS, DO NOT APPLY TO A PUBLIC EMPLOYEE OF AN INSTITUTION OF HIGHER EDUCATION WHO PARTICIPATES IN THE DEVELOPMENT OF INTELLECTUAL PROPERTY THAT BENEFITS THE INSTITUTION AND THE STATE OF SOUTH CAROLINA, IF THE INSTITUTION OF HIGHER EDUCATION RETAINS SOME ROYALTY RIGHTS TO THE INTELLECTUAL PROPERTY; BY ADDING SECTION 8‑27‑05 SO AS TO ENTITLE CHAPTER 27 THE “SOUTH CAROLINA WHISTLEBLOWER AND PUBLIC EMPLOYEE PROTECTION ACT”; TO AMEND SECTION 8‑27‑20, AS AMENDED, RELATING TO REWARDS FOR REPORTS RESULTING IN SAVINGS, SO AS TO ELIMINATE THE TWO THOUSAND DOLLAR CAP ON REWARDS; TO AMEND SECTION 8‑27‑30, AS AMENDED, RELATING TO CIVIL ACTIONS AGAINST AN EMPLOYING PUBLIC BODY FOR RETALIATION AGAINST AN EMPLOYEE WHO REPORTS A VIOLATION OF STATE OR FEDERAL LAW OR REGULATION, SO AS TO REMOVE THE ONE‑YEAR LIMITATION ON THE PERIOD DURING WHICH THE EMPLOYEE IS PROTECTED FROM ADVERSE EMPLOYMENT ACTIONS, AND TO PROVIDE FOR ADDITIONAL REMEDIES; AND TO REPEAL SECTIONS 8‑13‑705, 8‑13‑720, 8‑13‑725, 8‑13‑750, 8‑13‑755, AND 8‑13‑760 ALL RELATING TO ETHICS RULES OF CONDUCT.

Be it enacted by the General Assembly of the State of South Carolina:

Part I

State Ethics Commission, Judicial Complaints and Procedures, Ethics Criminal Penalties

SECTION 1. Section 8‑13‑310 of the 1976 Code, as last amended by Act 279 of 2012, is further amended to read:

“Section 8‑13‑310. ~~(A)~~ ~~The State Ethics Commission as constituted under law in effect before July 1, 1992, is reconstituted to continue in existence with the appointment and qualification of the at‑large members as prescribed in this section and with the changes in duties and powers as prescribed in this chapter. On July 1, 1993, when the duties and powers given to the Secretary of State in Chapter 17 of Title 2 are transferred to the State Ethics Commission, the Code Commissioner is directed to change all references to “this chapter” in Article 3 of Chapter 13 of Title 8 to “this chapter and Chapter 17 of Title 2”.~~

~~(B)~~ ~~There is created the State Ethics Commission composed of nine members appointed by the Governor, upon the advice and consent of the General Assembly. One member shall represent each of the seven congressional districts, and two members must be appointed from the State at large. No member of the General Assembly or other public official must be eligible to serve on the State Ethics Commission. The Governor shall make the appointments based on merit regardless of race, color, creed, or gender and shall strive to assure that the membership of the commission is representative of all citizens of the State of South Carolina.~~

~~(C)~~ ~~The terms of the members are for five years and until their successors are appointed and qualify. The members of the State Ethics Commission serving on this chapter’s effective date may continue to serve until the expiration of their terms. These members may then be appointed to serve one full five‑year term under the provisions of this chapter.~~

~~Members representing the first, third, and sixth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1991. Members currently representing the second, fourth, and fifth congressional districts on this chapter’s effective date are eligible to be appointed for a full five‑year term in or after 1993. The initial appointments for the at‑large members of the commission created by this chapter must be for a one‑, two‑, or three‑year term, but these at‑large members are eligible subsequently for a full five‑year term. Under this section, the at‑large members of the commission are to be appointed to begin service on or after July 1, 1992. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who have completed a full five‑year term are not eligible for reappointment.~~

~~(D)~~ ~~The commission shall elect a chairman, a vice‑chairman, and such other officers as it considers necessary. Five members of the commission shall constitute a quorum. The commission must adopt a policy concerning the attendance of its members at commission meetings. The commission meets at the call of the chairman or a majority of its members. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as is provided by law for members of state boards, committees, and commissions.~~

(A) There is created the State Ethics Commission which beginning July 1, 2015, shall be composed of the members provided for in this subsection:

(1) four members must be appointed by the Governor, no more than two of whom are associated with the appointing Governor’s political party;

(2) four members must be elected by the Supreme Court, each of whom must not be actively serving judges of any court of this State, including summary court judges or retired judges sitting or permitted to sit as judges in the courts of this State;

(3) two members must be elected by the Senate with one member being nominated by the majority political party in the General Assembly and the other being nominated by the largest minority party in the General Assembly; and

(4) two members must be elected by the House of Representatives with one member being nominated by the majority political party in the General Assembly and the other being nominated by the largest minority party in the General Assembly.

(B)(1) The qualifications the appointing or electing authorities shall consider for the appointees include, but are not limited to:

(a) ethical fitness;

(b) character;

(c) mental stability;

(d) experience;

(e) temperament; and

(f) if the appointee has contributed to the election campaign of the individual appointing him to the State Ethics Commission within the previous four years.

(2) Members shall be chosen based on merit. However, in making appointments to the commission, the appointing authorities shall ensure that race, color, gender, national origin, and other demographic factors are considered to ensure the geographic and political balance of the appointments, and shall strive to assure that the membership of the commission represents, to the greatest extent possible, all segments of the population of this State.

(3) The following are not eligible to serve on the State Ethics Commission:

(a) a member of the General Assembly;

(b) a family member, as defined by Section 8‑13‑100(15), of a member of the General Assembly, the Governor, or any member of the Supreme Court;

(c) a person who registered as a lobbyist within four years of being appointed to serve on the State Ethics Commission;

(d) a person who is under the jurisdiction of the State Ethics Commission, the House of Representatives Ethics Committee, or the Senate Ethics Committee; and

(e) an actively serving judge of any court of this State, including summary court judges, and any retired judge sitting or permitted to sit in any court of this State.

(C) Any member of the commission who has made a campaign contribution as defined in Section 8‑13‑1300(7) or has any direct financial relationship, including interest in a business, partnership or LLC, with the respondent before the commission must recuse themselves from all proceedings concerning that respondent.

(D) The terms of the members are for five years. The terms of the members currently serving expire on June 30, 2015; however, a member who is serving at that time may be appointed for a new five‑year term. For the initial appointments made by the Governor, two must be for a term of two years, the third must be for a term of four years, and the fourth must be for a full five‑year term. For the initial appointments made by the House of Representatives and the Senate, one must be for a three‑year term and the other must be for a full five‑year term. The initial members who have served terms that are less than five years are eligible to be reappointed for one full five‑year term. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission who have completed a full five‑year term are not eligible for reappointment and shall not serve on the commission after their term expires.

(E) The commission shall elect a chairman, a vice chairman, and such other officers as it considers necessary. Seven members of the commission constitute a quorum. The commission shall adopt a policy concerning the attendance of its members at commission meetings. The commission meets at the call of the chairman or a majority of its members. Members of the commission, while serving on business of the commission, receive per diem, mileage, and subsistence as is provided by law for members of state boards, committees, and commissions.

(F)(1) A commission member appointed by the Governor may be removed from office by the Governor for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity, pursuant to Section 1‑3‑240.

(2) A commission member elected by the Senate or the House of Representatives may be removed for malfeasance, misfeasance, incompetency, absenteeism, conflicts of interest, misconduct, persistent neglect of duty in office, or incapacity upon a finding by two‑thirds of the membership of the appropriate body.”

SECTION 2. A. The first paragraph of Section 8‑13‑320(9) of the 1976 Code, as last amended by Act 245 of 2008, is further amended to read:

“(9) to initiate or receive complaints and make investigations, as provided in item (10), of statements filed or allegedly failed to be filed under the provisions of this chapter and Chapter 17, ~~of~~ Title 2 and, upon complaint by an individual, of an alleged violation of this chapter or Chapter 17, ~~of~~ Title 2 by a public official, public member, or public employee ~~except members or staff, including staff elected to serve as officers of or candidates for the General Assembly unless otherwise provided for under House or Senate rules~~. Any person charged with a violation of this chapter or Chapter 17, ~~of~~ Title 2 is entitled to the administrative hearing process contained in this section.”

B. Section 8‑13‑320(10)(g) of the 1976 Code, as last amended by Act 1 of 2011, is further amended to read:

“(g) All investigations, inquiries, hearings, and accompanying documents ~~must remain~~ are confidential ~~until a finding of probable cause or dismissal unless the respondent waives the right to confidentiality~~ and only may be released pursuant to this subsection. After a finding of probable cause by a majority of the commission, the following documents become public record: the complaint, the response by the respondent, the notice of hearing, exhibits introduced at a hearing, the commission’s findings, and the final order. Exhibits introduced must be redacted prior to release to exclude personal information where the public disclosure would constitute an unreasonable invasion of personal privacy. The respondent may waive the right to confidentiality. The ~~willful~~ wilful release of confidential information is a misdemeanor, and any person releasing confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year.”

C. Section 8‑13‑320(10)(j) of the 1976 Code is amended to read:

“(j) If a hearing is to be held, the respondent must be allowed to examine and make copies of all evidence in the commission’s possession relating to the charges. The same discovery techniques which are available to the commission must be equally available to the respondent, including the right to request the commission to subpoena witnesses or materials and the right to conduct depositions as prescribed by subitem (f). A panel of three commissioners must conduct a hearing in accordance with Chapter 23, ~~of~~ Title 1 (Administrative Procedures Act), except as otherwise expressly provided. Panel action requires the participation of the three panel members. During a commission panel hearing conducted to determine whether a violation of the chapter has occurred, the respondent must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All evidence, including records the commission considers, must be offered fully and made a part of the record in the proceedings. The hearings must be ~~held in executive session unless the respondent requests an open hearing~~ open to the public.”

D. Section 8‑13‑320(11) of the 1976 Code is amended to read:

“(11)(a) to issue, upon request from persons covered by this chapter, and publish formal advisory opinions on the requirements of this chapter, based on real or hypothetical sets of circumstances; provided, that an opinion rendered by the commission or an opinion issued by the commission prior to the effective date of this act, until amended or revoked, is binding on the commission in any subsequent charges concerning the person who requested the opinion and who acted in reliance on it in good faith unless material facts were omitted or misstated by the person in the request for the opinion. Formal advisory opinions must be in writing and are considered rendered when approved by ~~five or more~~ a majority of the commission members subscribing to the advisory opinion. Advisory opinions must be made available to the public unless the commission, by majority vote of the total membership of the commission, requires an opinion to remain confidential. However, the identities of the parties involved must be withheld upon request;

(b) the State Ethics Commission may issue through its staff a written informal advisory opinion, based on real or hypothetical sets of circumstances, to a person or governmental entity within the commission’s jurisdiction upon that person’s or governmental entity’s request. If raised in response to a complaint, the commission shall consider whether the person who requested the opinion or who is a member of the governmental entity who requested the informal opinion and who is affected by the circumstances described within the request for the informal opinion, relied in good faith on a written informal advisory opinion prior to making a probable cause determination.”

E. Section 8‑13‑320 of the 1976 Code, as last amended by Act 1 of 2011, is further amended by adding appropriately numbered items to read:

“( ) to initiate upon the vote of a majority of the membership, and to receive complaints against a member or staff of the appropriate house or legislative caucus committee, or a candidate for the appropriate house, alleging a violation of this chapter or Chapter 17, Title 2 and to conduct an investigation into the complaint pursuant to Section 8‑13‑540;

( ) to provide a copy of the complaint and accompanying materials to the Attorney General if the commission finds that there is probable cause to support the existence of criminal intent on the part of the respondent when the violation occurred.”

SECTION 3. Section 8‑13‑350 of the 1976 Code, as added by Act 248 of 1991, is amended to read:

“Section 8‑13‑350. When hired, filing for office, or appointed and upon assuming the duties of employment, office, or position in state government, a public official, public member, and public employee shall receive a brochure prepared by the State Ethics Commission describing the general application of this chapter. The brochure must be created and updated by the State Ethics Commission and the brochure must provide an outline of the enforcement structure in the Ethics Act, the filing deadlines provided in the Ethics Act, and a general overview of the duties and responsibilities of individuals under the Ethics Act. Upon receipt of the brochure, the receiving individual should sign a document memorializing his receipt of the brochure. This signed document should be transmitted to the appropriate supervisory agency for its retention.”

SECTION 4. Section 8‑13‑530 of the 1976 Code, as last amended by Act 245 of 2008, is further amended to read:

“Section 8‑13‑530. Each ethics committee shall:

(1) ascertain whether a person has failed to comply fully and accurately with the disclosure requirements of this chapter and promptly notify the person to file the necessary notices and reports to satisfy the requirements of this chapter;

(2) receive complaints filed by individuals and, upon a majority vote of the total membership of the committee, file complaints when alleged violations are identified;

(3) upon the filing of a complaint, investigate possible violations of a rule or breach of a privilege governing a member or staff of the appropriate house, the alleged breach of a rule governing a member of, legislative caucus committees for, or a candidate, or staff for the appropriate house~~, misconduct of a member or staff of, legislative caucus committees for, or a candidate for the appropriate house, or a violation of this chapter or Chapter 17 of Title 2~~. Upon the filing of a complaint alleging a violation by a member or staff of the appropriate house or legislative caucus committee, or a candidate for the appropriate house, for a violation of this chapter or Chapter 17, Title 2, except a technical violation pursuant to Section 8‑13‑1170 or 8‑13‑1372, the ethics committee shall refer the complaint to the State Ethics Commission for an investigation pursuant to Section 8‑13‑540. The appropriate ethics committee shall investigate and make determinations for technical violations of Section 8‑13‑1170 or 8‑13‑1372;

(4) receive and hear a complaint which alleges a breach of a privilege governing a member or staff of the appropriate house, the alleged breach of a rule governing a member or staff of or candidate for the appropriate house~~, misconduct of a member or staff of or candidate for the appropriate house, or a violation of this chapter or Chapter 17 of Title 2.~~;

(5) no complaint may be accepted by the ethics committee or the State Ethics Commission concerning a member of or candidate for the appropriate house during the fifty‑day period before an election in which the member or candidate is a candidate. ~~During this fifty‑day period, any person may petition the court of common pleas alleging the violations complained of and praying for appropriate relief by way of mandamus or injunction, or both. Within ten days, a rule to show cause hearing must be held, and the court must either dismiss the petition or direct that a mandamus order or an injunction, or both, be issued. A violation of this chapter by a candidate during this fifty‑day period must be considered to be an irreparable injury for which no adequate remedy at law exists. The institution of an action for injunctive relief does not relieve any party to the proceeding from any penalty prescribed for violations of this chapter. The court must award reasonable attorney’s fees and costs to the nonpetitioning party if a petition for mandamus or injunctive relief is dismissed based upon a finding that the:~~

~~(i)~~ ~~petition is being presented for an improper purpose such as harassment or to cause delay;~~

~~(ii)~~ ~~claims, defenses, and other legal contentions are not warranted by existing law or are based upon a frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and~~

~~(iii)~~ ~~allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after reasonable opportunity for further investigation or discovery.~~

Action on a complaint filed against a member or candidate which was received more than fifty days before the election but which cannot be disposed of or dismissed by the ethics committee at least thirty days before the election must be postponed until after the election;

~~(5)~~(6) obtain information and ~~investigate~~ hear complaints as provided in Section 8‑13‑540 with respect to any complaint filed pursuant to this chapter or Chapter 17, ~~of~~ Title 2 and to that end may compel by subpoena issued by a majority vote of the committee the attendance and testimony of witnesses and the production of pertinent books and papers;

~~(6)~~(7) administer or recommend sanctions appropriate to a particular member, or staff of, or candidate for, the appropriate house pursuant to Section 8‑13‑540, including the recovery of the value of anything transferred or received in breach of the ethical standards, or dismiss the charges; and

~~(7)~~(8) act as an advisory body to the General Assembly and to individual members of or candidates for the appropriate house on questions pertaining to the disclosure and filing requirements of members of or candidates for the appropriate house and to issue, upon request from persons covered by this chapter and Chapter 17, Title 2, and publish advisory opinions on the requirements of these chapters.”

SECTION 5. A. Section 8‑13‑540 of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“Section 8‑13‑540. ~~Unless otherwise provided for by House or Senate rule, as appropriate, each ethics committee must conduct its investigation of a complaint filed pursuant to this chapter or Chapter 17 of Title 2 in accordance with this section.~~

~~(1)~~ ~~When a complaint is filed with or by the ethics committee, a copy must promptly be sent to the person alleged to have committed the violation. If the ethics committee determines the complaint does not allege facts sufficient to constitute a violation, the complaint must be dismissed and the complainant and respondent notified. If the ethics committee finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to appropriate law enforcement authorities. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In lieu of the criminal penalty provided by this subsection, a civil penalty of not more than one thousand dollars may be assessed against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was wilful and without just cause or with malice. If the ethics committee determines the complaint alleges facts sufficient to constitute a violation, it shall promptly investigate the alleged violation and may compel by subpoena the attendance and testimony of witnesses and the production of pertinent books and papers.~~

~~If after such preliminary investigation, the ethics committee finds that probable cause exists to support an alleged violation, it shall, as appropriate:~~

~~(a)~~ ~~render an advisory opinion to the respondent and require the respondent’s compliance within a reasonable time; or~~

~~(b)~~ ~~convene a formal hearing on the matter within thirty days of the respondent’s failure to comply with the advisory opinion. All ethics committee investigations and records relating to the preliminary investigation are confidential. No complaint shall be accepted which is filed later than four years after the alleged violation occurred.~~

~~(2)~~ ~~If a hearing is to be held, the respondent must be allowed to examine and make copies of all evidence in the ethics committee’s possession relating to the charges. At the hearing the charged party must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All hearings must be conducted in executive session.~~

~~(3)~~ ~~After the hearing, the ethics committee shall determine its findings of fact. If the ethics committee, based on competent and substantial evidence, finds the respondent has violated this chapter or Chapter 17 of Title 2, it shall:~~

~~(a)~~ ~~administer a public or private reprimand;~~

~~(b)~~ ~~determine that a technical violation as provided for in Section 8‑13‑1170 has occurred;~~

~~(c)~~ ~~recommend expulsion of the member; and/or,~~

~~(d)~~ ~~in the case of an alleged criminal violation, refer the matter to the Attorney General for investigation. The ethics committee shall report its findings in writing to the Speaker of the House or President Pro Tempore of the Senate, as appropriate. The report must be accompanied by an order of punishment and supported and signed by a majority of the ethics committee members. If the ethics committee finds the respondent has not violated a code or statutory provision, it shall dismiss the charges.~~

~~(4)~~ ~~An individual has ten days from the date of the notification of the ethics committee’s action to appeal the action to the full legislative body.~~

~~(5)~~ ~~No ethics committee member may participate in any matter in which he is involved.~~

~~(6)~~ ~~The ethics committee shall establish procedures which afford respondents appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses.~~

(A)(1) When a complaint is filed with or by the ethics committee, a copy must be sent to the person alleged to have committed the violation and to the State Ethics Commission, within thirty days from the date the complaint was filed, for an investigation as provided in this subsection. The State Ethics Commission may commence an investigation of an alleged violation of this chapter or Chapter 17, Title 2 of a member of the General Assembly, its staff, or candidates for the General Assembly upon the filing of a complaint by the commission or an individual, or by the referral of a complaint by the appropriate ethics committee. A copy of the complaint must be sent to the appropriate ethics committee. However, the appropriate ethics committee shall investigate and make a determination for a complaint that alleges only a technical violation of Section 8‑13‑1170 or 8‑13‑1372.

(2) If an alleged violation is found to be groundless by the State Ethics Commission, a report must be provided to the appropriate ethics committee. The appropriate ethics committee may concur or nonconcur with the commission’s report or, within fifteen days from the receipt of the State Ethics Commission’s report, request the commission to continue the investigation and consider additional matters not considered by the commission. If the commission finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to the Attorney General and to the appropriate ethics committee. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than one year. In addition to the criminal penalty provided by this item, the appropriate ethics committee may assess a civil penalty of not more than one thousand dollars against the complainant upon proof by a preponderance of the evidence that the filing of the complaint was groundless, wilful and without just cause or with malice.

(3) Action may not be taken on a complaint filed more than four years after the violation is alleged to have occurred unless a person, by fraud or other device, prevents discovery of the violation.

(4)(a) To conduct its investigation:

(i) the State Ethics Commission, upon receipt of information, may initiate a complaint upon an affirmative vote of the commission or shall accept notarized complaints referred from the ethics committees or from an individual, whether personally or on behalf of an organization or governmental body, that states the name of a person alleged to have committed a violation of this chapter or Chapter 17, Title 2 and the particulars of the violation. The commission shall forward a copy of the complaint, a general statement of the applicable law with respect to the complaint, and a statement explaining the due process rights of the respondent including, but not limited to, the right to counsel to the respondent within ten days of the filing of the complaint;

(ii) if the commission or its executive director determines that the complaint does not allege facts sufficient to constitute a violation, a report must be provided to the appropriate ethics committee. The appropriate ethics committee may concur or nonconcur with the commission’s report, or within fifteen days from the committee’s receipt of the finding, the committee may request the commission to continue the investigation and consider additional matters not considered by the commission. If the appropriate ethics committee concurs with the recommendation to dismiss the complaint, the committee must notify the complainant and respondent. All documents related to a complaint that result in a dismissal or a finding of no probable cause remains confidential, unless the respondent waives the right to confidentiality;

(iii) if the commission or its executive director determines that the complaint alleges facts sufficient to constitute a violation, an investigation may be conducted into the alleged violation. However, if the commission receives or initiates a complaint regarding a member of the General Assembly, legislative staff, or a candidate for the General Assembly, that only alleges a technical violation pursuant to Section 8‑13‑1170 or 8‑13‑1372, the complaint must be forwarded to the appropriate ethics committee for an investigation and disposition of the matter;

(iv) if the commission finds that there is evidence of wilful conduct that would constitute a criminal violation of Chapter 28 of Title 16, Chapter 13 of Title 8, or Chapter 17 of Title 2, on the part of the respondent when the violation occurred, then the complaint and accompanying materials also must be provided to the Attorney General. This provision does not limit any authority of the Attorney General or circuit solicitor to initiate or conduct any criminal investigation within his jurisdiction;

(v) if the commission determines that assistance is needed in conducting an investigation, the commission shall request the assistance of appropriate agencies;

(vi) the commission may order testimony to be taken in any investigation or hearing by deposition before a person who is designated by the commission and has the power to administer oaths and, in these instances, to compel testimony. The commission may administer oaths and affirmation for the testimony of witnesses and issue subpoenas by approval of the chairman, subject to judicial enforcement, and issue subpoenas for the procurement of witnesses and materials including books, papers, records, documents, or other tangible objects relevant to the agency’s investigation by approval of the chairman, subject to judicial enforcement. A person to whom a subpoena has been issued may move before a commission panel or the commission for an order quashing a subpoena issued pursuant to this section.

(b) All investigations and accompanying documents are confidential and only may be released pursuant to this item. Thirty days after a recommendation of probable cause by the commission after it completes its investigation, the following documents become public record: the complaint, the response by the respondent, the notice of hearing before the appropriate ethics committee, the investigative findings, exhibits introduced at any hearing, and the final order. However, if the appropriate committee requests a further investigation, the documents must not be released until thirty days after the conclusion of the investigation or upon a finding of probable cause by the committee, whichever occurs earlier.

(c) Exhibits introduced must be redacted prior to release to exclude personal information where the public disclosure would constitute an unreasonable invasion of personal privacy. The respondent may waive the right to confidentiality. The wilful release of confidential information is a misdemeanor, and a person releasing confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year.

(5) Upon completion of the commission’s investigation, the commission shall make a recommendation as to whether there is probable cause to believe a violation of this chapter or of Chapter 17, Title 2 has occurred. The commission shall forward a copy of its recommendation, along with a copy of all relevant reports, evidence, and testimony, to the appropriate ethics committee.

(6) If after reviewing the commission’s recommendation and relevant evidence, the ethics committee determines that probable cause does not exist, it shall send a written decision to the respondent and the complainant. If the ethics committee determines that probable cause exists to support an alleged violation, it shall, as appropriate:

(a) render an advisory opinion to the respondent and require the respondent’s compliance within a reasonable time; or

(b) convene a formal public hearing on the matter within thirty days of the respondent’s failure to comply with the advisory opinion. A complaint must not be accepted which is filed later than four years after the alleged violation occurred.

(B) If a formal public hearing is to be held:

(1) the investigator or attorney handling the investigation from the ethics commission shall present the evidence related to the complaint to the appropriate ethics committee;

(2) it is the duty of the investigator or attorney to further investigate the subject of the complaint and any related matters under the jurisdiction and at the direction of the ethics committee, to request assistance from appropriate state agencies as needed, to request authorization from the committee for funds for the hiring of auditors, investigators, or other assistance as necessary, to prepare subpoenas, and to present evidence to the committee at any public hearing. The appropriate committee shall maintain the authority to approve subpoenas, authorize expenditures, dismiss complaints, schedule hearings, grant continuances, and any other authority as provided for by their rules;

(3) the respondent must be allowed to examine and make copies of all evidence in the ethics committee’s possession relating to the charges. At the hearing the charged party must be afforded appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses. All hearings must be open to the public.

(C)(1) After the hearing, the ethics committee shall determine its findings of fact. If the ethics committee, based on competent and substantial evidence, finds the respondent has violated this chapter or Chapter 17, Title 2, it shall:

(a) administer a public reprimand;

(b) determine that a technical violation as provided for in Section 8‑13‑1170 or 8‑13‑1372 has occurred;

(c) require the respondent to pay a civil penalty not to exceed two thousand dollars for each nontechnical violation that is unrelated to the late filing of a required statement or report or failure to file a required statement or report;

(d) require the forfeiture of gifts, receipts, or profits, or the value of each, obtained in violation of Chapter 13, Title 8 or Chapter 17, Title 2;

(e) recommend expulsion of the member;

(f) provide a copy of the complaint and accompanying materials to the Attorney General if the committee finds evidence of wilful conduct on the part of the respondent when the violation occurred; however, this provision does not limit any authority of the Attorney General or circuit solicitor to initiate or conduct any criminal investigation within his jurisdiction;

(g) require a combination of subitems (a) through (f) as necessary and appropriate.

(2) The ethics committee shall report its findings in writing to the Speaker of the House of Representatives or President Pro Tempore of the Senate, as appropriate. The report must be accompanied by an order of punishment and supported and signed by a majority of the ethics committee members. If the ethics committee finds the respondent has not violated a code or statutory provision, it shall dismiss the charges.

(D) An individual has ten days from the date of the notification of the ethics committee’s action to appeal the action to the full legislative body.

(E) No ethics committee member may participate in any matter in which he is involved.

(F) The ethics committee shall establish procedures which afford respondents appropriate due process protections, including the right to be represented by counsel, the right to call and examine witnesses, the right to introduce exhibits, and the right to cross‑examine opposing witnesses.”

B. Article 5, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑545. (A) The ethics committee may issue a formal advisory opinion, based on real or hypothetical sets of circumstances. A formal advisory opinion issued by the committee is binding on the State Ethics Commission and the committee, until amended or revoked, in any subsequent charges concerning the person who requested the formal opinion and any other person who acted in reliance upon it in good faith unless material facts were omitted or misstated by the person in the request for the opinion. A formal advisory opinion must be in writing and is considered rendered when approved by a majority of the committee members subscribing to the advisory opinion. Advisory opinions must be made available to the public unless the committee, by majority vote of the total membership of the committee, requires an opinion to remain confidential. However, the identities of the parties involved must be withheld upon request.

(B) The State Ethics Commission and the appropriate ethics committee shall consider whether a person relied in good faith upon a formal advisory opinion or written informal opinion issued by the committee prior to the effective date of this act, unless amended or revoked prior to the action considered as a possible violation, prior to making a probable cause decision.”

SECTION 6. Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Article 6

Judicial Complaints and Procedures

Section 8‑13‑610. (A) There is created a Commission on Judicial Conduct. The commission has jurisdiction over judges regarding allegations that misconduct occurred before or during service as a judge and regarding allegations of incapacity during service as a judge. The commission has continuing jurisdiction over former judges regarding allegations that misconduct occurred during service as a judge. The commission shall also have jurisdiction over allegations that a former judge has made false statements or presented false evidence, or has committed conduct which would be a ground for discipline under Rule 7(a)(2), Rules for Judicial Disciplinary Enforcement (RJDE), Rule 502, South Carolina Appellate Court Rules (SCACR), during a disciplinary proceeding against the former judge even if the conduct did not occur during the time of service as a judge, and the commission may recommend the imposition of a sanction under Rule 7(b) or may recommend that a finding of criminal contempt be made by the Supreme Court for this conduct.

(B) The commission shall be composed of twenty‑four members determined by the Supreme Court, the General Assembly, and the Governor as follows:

(1) The Supreme Court shall elect eight members, six of whom shall be judges from the circuit court, family court, or masters‑in‑equity, and two shall be judges from the magistrate, municipal, or probate courts.

(2) The Senate shall elect four members, two of whom must be regular members of the South Carolina Bar appointed from the state at large, and two of whom must be public members appointed from the state at large. To be eligible for election, two members must first be nominated by the majority party of the Senate and two members must be nominated by the minority party of the Senate.

(3) The House of Representatives shall elect four members, two of whom must be regular members of the South Carolina Bar appointed from the state at large, and two of whom must be public members appointed from the state at large. To be eligible for election, two members must first be nominated by the majority party of the House and two members must be nominated by the minority party of the House.

(4) The Governor shall appoint eight members, four of whom must be regular members of the South Carolina Bar appointed from the state at large, and four of whom must be public members appointed from the state at large. Additionally, no more than four of the appointees may be associated with the appointing Governor’s political party. Executive branch employees and current members of the Governor’s staff may not be appointed to serve as commission members.

(C) For purposes of this section, ‘public member’ means a commission member who has never served as a judge or admitted to practice law. The term ‘public member’ excludes current members of the General Assembly, executive branch employees, or current members of the Governor’s staff.

(D) Commission members shall serve for a term of four years and until their successors are appointed and qualify. Commission members are eligible for reappointment. A member assigned to a hearing panel may continue to participate in the hearing and decision of a matter despite the expiration of the member’s term if the hearing began before the expiration of the term. A vacancy shall occur when a commission member ceases to be eligible to represent the category from which the member was appointed, is removed by the member’s appointing authority, or becomes unable to serve. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. Members of the commission, while serving on business of the commission, shall receive per diem, mileage, and subsistence as is provided by law for members of state boards, committees, and commissions. Current members of the General Assembly may not be appointed to serve as commission members.

(E) Except as otherwise provided in this article, the commission’s organization, authority, powers, duties, and responsibilities are delineated in Rule 4, RJDE, Rule 502, SCACR.

Section 8‑13‑620. If an alleged violation is found to be groundless by the State Ethics Commission, a report must be provided to the Commission on Judicial Conduct. The Commission on Judicial Conduct may concur or nonconcur with the commission’s report or, within fifteen days from the receipt of the State Ethics Commission’s report, request the commission to continue the investigation and consider additional matters not considered by the commission. If the commission finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to the Attorney General and to the Commission on Judicial Conduct. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than one year. In addition to the criminal penalty provided by this section, the Commission on Judicial Conduct may assess a civil penalty of not more than one thousand dollars against the complainant upon proof by a preponderance of the evidence that the filing of the complaint was groundless, wilful and without just cause or with malice.

Section 8‑13‑630. (A) All judicial misconduct investigations, inquiries, hearings, and accompanying documents are confidential and only may be released pursuant to this subsection. Upon the filing of formal charges, the following documents become public record: the complaint, the response by the respondent, the notice of hearing, exhibits introduced at a hearing, the commission’s findings, and the final order. Exhibits introduced must be redacted prior to release to exclude personal information where the public disclosure would constitute an unreasonable invasion of personal privacy. The respondent may waive the right to confidentiality.

(B) The wilful release of confidential information is a misdemeanor, and any person releasing confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year. If allegations of incapacity, as defined in Rule 2(l), RJDE, Rule 502, SCACR, are raised during the misconduct proceedings, all records, information, and proceedings relating to these allegations must be held confidential.

Section 8‑13‑640. If the chair, vice‑chair or a panel of the Commission on Judicial Conduct is in possession of reliable information indicating that a judge has violated the criminal laws of this State, another state, the District of Columbia, or the United States, the existence of the misconduct proceedings and other materials related to a criminal violation must be provided as soon as practicable to the Attorney General, the United States Attorney, or another similarly suitable law enforcement official for appropriate action.”

SECTION 7. Title 16 of the 1976 Code is amended by adding:

“CHAPTER 28

Ethics

Criminal Penalties

Section 16‑28‑100. As used in this chapter, all terms shall have the same definition as contained in Sections 8‑13‑100 and 8‑13‑1300 as applicable.

Section 16‑28‑110. (A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:

(1) influence the discharge of a public official’s, public member’s, or public employee’s official responsibilities;

(2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or

(3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official’s, public member’s, or public employee’s official responsibilities:

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

(1) influenced in the discharge of his official responsibilities;

(2) influenced to commit, aid in committing, collude in, or allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or

(3) induced to perform or fail to perform an act in violation of his official responsibilities.

(C) A person may not, directly or indirectly, give, offer, or promise to give anything of value to another person with intent to influence testimony under oath or affirmation in a trial or other proceeding before:

(1) a court;

(2) a committee of either house or both houses of the General Assembly; or

(3) an agency, commission, or officer authorized to hear evidence or take testimony or with intent to influence a witness to fail to appear.

(D) A person may not, directly or indirectly, ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value in return for influencing testimony under oath or affirmation in a trial or other proceeding before:

(1) a court;

(2) a committee of either house or both houses of the General Assembly; or

(3) an agency, commission, or officer authorized to hear evidence or take testimony or with intent to influence a witness to fail to appear.

(E) Subsections (C) and (D) do not prohibit the payment or receipt of witness fees provided by law or the payment by the party on whose behalf a witness is called and receipt by a witness of the reasonable costs of travel and subsistence at trial, hearing, or proceeding, or, in the case of an expert witness, of the reasonable fee for time spent in the preparation of the opinion and in appearing or testifying.

(F) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be punished by imprisonment for not more than ten years and a fine of not more than ten thousand dollars and is permanently disqualified from being a public official or a public member. A public official, public member, or public employee who violates the provisions of this section forfeits his public office, membership, or employment.

(G) This section does not apply to political contributions unless the contributions are conditioned upon the performance of specific actions of the person accepting the contributions nor does it prohibit a parent, grandparent, or other close relative from making a gift to a child, grandchild, or other close relative for love and affection except as otherwise provided.

Section 16‑28‑115. (A) No person may knowingly use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this subsection does not extend to the incidental personal use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual’s duties as a holder of elective office.

(B) The payment of reasonable and necessary travel expenses or for food or beverages consumed by the candidate or members of his immediate family while at, and in connection with, a political event are permitted.

(C) A person who wilfully or recklessly violates the provisions of this section:

(1) if the amount is two thousand dollars or less in the aggregate during any reporting period for the certified campaign reports as set forth in Section 8‑13‑1308, or in final disbursement as set forth in Section 8‑13‑1370, is guilty of misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days and must refund the amount of personal use back to his campaign account;

(2) if the amount is more than two thousand dollars but less than ten thousand dollars in the aggregate during any reporting period for the certified campaign reports as set forth in Section 8‑13‑1308, or in final disbursement as set forth in Section 8‑13‑1370, the person is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years and must refund the amount of personal use back to his campaign account;

(3) if the amount is ten thousand dollars or more in the aggregate during any reporting period for the certified campaign reports as set forth in Section 8‑13‑1308, or in final disbursement as set forth in Section 8‑13‑1370, the person is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, and must refund the amount of personal use back to his campaign account.

Section 16‑28‑120. (A) No person may wilfully offer or pay to a public official, public member, or public employee and no public official, public member, or public employee may wilfully solicit or receive money in addition to that received by the public official, public member, or public employee in his official capacity for advice or assistance given in the course of his employment as a public official, public member, or public employee.

(B) A person who wilfully or recklessly violates the provisions of this section:

(1) if the amount is two thousand dollars or less, is guilty of a misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65. Upon conviction, the person must be fined not more than one thousand dollars or imprisoned not more than thirty days and must refund the amount of money to the state’s general fund;

(2) if the amount is more than two thousand dollars but less than ten thousand dollars, is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years and must refund the amount of money to the state’s general fund;

(3) if the amount is ten thousand dollars or more, is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, and must refund the amount of money to the state’s general fund.

Section 16‑28‑125. (A) A public official, public member, or public employee may not wilfully use or disclose confidential information gained in the course of or by reason of his official responsibilities in a way that would affect an economic interest held by him, a family member, an individual with whom he is associated, or a business with which he is associated.

(B)(1) A public official, public member, or public employee may not wilfully examine, or aid and abet in the wilful examination of, a tax return of a taxpayer, a worker’s compensation record, a record in connection with health or medical treatment, social services records, or other records of an individual in the possession of or within the access of a public department or agency if the purpose of the examination is improper or unlawful.

(2) A person convicted of violating this subsection must be fined not more than five thousand dollars or imprisoned not more than five years, or both, and shall reimburse the costs of prosecution. Upon conviction, the person also must be discharged immediately from his public capacity as an official, member, or employee.

Section 16‑28‑130. (A) No public official, public member, or public employee may cause the employment, appointment, promotion, transfer, or advancement of a family member to a state or local office or position in which the public official, public member, or public employee supervises or manages.

(B) A public official, public member, or public employee may not participate in an action relating to the discipline of the public official’s, public member’s, or public employee’s family member.

Section 16‑28‑135. A former public official, former public member, or former public employee may not for a period of one year after terminating his public service or employment:

(1) serve as a lobbyist or represent clients before the agency or department on which he formerly served in a matter which he directly and substantially participated during his public service or employment; or

(2) accept employment if the employment:

(a) is from a person who is regulated by the agency or department on which the former public official, former public member, or former public employee served or was employed; and

(b) involves a matter in which the former public official, former public member, or former public employee directly and substantially participated during his public service or public employment.

Section 16‑28‑140. It is a breach of ethical standards for a public official, public member, or public employee who is participating directly in procurement, as defined in Section 11‑35‑310(22), to resign and accept employment for a period of one year from the date of termination of service or employment with a person contracting with the governmental body if the contract falls or would fall under the public official’s, public member’s, or public employee’s official responsibilities.

Section 16‑28‑145. (A) Unless otherwise provided for in this chapter, a person who wilfully violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be punished by imprisonment of not more than three years or a fine of not more than ten thousand dollars, or both. A court also may order an appropriate amount of restitution taking under consideration any unjust enrichment, use of campaign funds to defray costs associated with a criminal action, or other factors deemed relevant to the particular case.

(B) As used in this chapter, the term ‘wilfully’ means that the act is intentional or knowing, as opposed to inadvertent.”

SECTION 8. Section 8‑13‑780 of the 1976 Code, as last amended by Act 248 of 1991, is further amended to read:

“Section 8‑13‑780. (A) The provisions of this section are in addition to all other civil and administrative remedies against public officials, public members, or public employees which are provided by law.

(B) ~~In addition to existing remedies for breach of the ethical standards of this chapter or regulations promulgated hereunder, the State Ethics Commission may impose an oral or written warning or reprimand.~~ For violation of the ethical standards of this article, the appropriate supervisory agency may:

(1) administer a public reprimand;

(2) require the respondent to pay a civil penalty not to exceed two thousand dollars for each nontechnical violation that is unrelated to the late filing of a required statement or report or failure to file a required statement or report;

(3) require the forfeiture of gifts, receipts, or profits, or the value of each obtained in violation of Chapter 13, Title 8 or Chapter 17, Title 2;

(4) require a combination of items (1) through (3) as necessary and appropriate.

(C) The value of anything received by a public official, public member, or public employee in breach of the ethical standards of this chapter ~~or regulations promulgated hereunder~~ is recoverable by the State or other governmental entity in an action by the Attorney General against a person benefitting from the violations.

(D) Before a public employee’s employment or a public official’s or public member’s association with the governmental entity is terminated for a violation of the provisions of this chapter, notice and an opportunity for a hearing must be provided to the public official, public member, or public employee.”

SECTION 9. Section 8‑13‑790(A) of the 1976 Code, as last amended by Act 248 of 1991, is further amended to read:

“(A) The value of anything transferred or received in breach of the ethical standards of Articles 1 through 11 of this chapter ~~or regulations promulgated under it~~ by a public employee, public official, or a nonpublic employee or official may be recovered from the public employee, public official, or nonpublic employee or official.”

SECTION 10. Section 8‑13‑1510 of the 1976 Code, as last amended by Act 40 of 2011, is further amended to read:

“Section 8‑13‑1510. ~~(A)~~ Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

(1) a fine of one hundred dollars if the statement or report is not filed within five days after the established deadline provided by law in this chapter; and

(2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

~~(B)~~ ~~After the maximum civil penalty has been levied and the required statement or report has not been filed, the person is:~~

~~(1)~~ ~~for a first offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;~~

~~(2)~~ ~~for a second offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned not less than a mandatory minimum of thirty days;~~

~~(3)~~ ~~for a third or subsequent offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.~~”

SECTION 11. Article 15, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑1515. A person who wilfully fails to file a required statement or report which has the effect of concealing a violation of this chapter is guilty of a misdemeanor and, upon conviction, must be fined five thousand dollars or be imprisoned for not more than one year, or both, for each statement or report not filed.”

SECTION 12. Section 8‑13‑1520 of the 1976 Code, as last amended by Act 76 of 2003, is further amended to read:

“Section 8‑13‑1520. (A) Except as otherwise specifically provided in this chapter and for failure to file a required statement or report, a person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.

(B) A person who wilfully violates any provision of this Article 13 is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred percent of the amount of contributions or anything of value that should have been reported pursuant to the provisions of this Article 13 but not less than five thousand dollars or imprisoned for not more than one year, or both.

(C) A violation of the provisions of this chapter does not necessarily subject a public official to the provisions of Section 8‑13‑560.

(D) For purposes of this section, ‘wilfully’ means that the act is intentional or knowing, as opposed to inadvertent.”

SECTION 13. Article 15, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑1525. For a violation of the ethical standards of this article, the appropriate supervisory agency may:

(1) administer a public reprimand;

(2) require the respondent to pay a civil penalty not to exceed two thousand dollars for each nontechnical violation that is unrelated to the late filing of a required statement or report or failure to file a required statement or report;

(3) require the forfeiture of gifts, receipts, or profits, or the value of each, obtained in violation of Chapter 13, Title 8, or Chapter 17, Title 2;

(4) order the repayment of any campaign funds it determines were inappropriately used to defray costs associated with the defense of the matter;

(5) require a combination of items (1) through (4) as necessary and appropriate.”

SECTION 14. Section 8‑13‑320(9)(c) of the 1976 Code, as last amended by Act 184 of 1993, is further amended to read:

“(c) If an alleged violation is found to be groundless by the commission, the entire matter must be stricken from public record. If the commission finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to the Attorney General. The wilful filing of a groundless complaint is a misdemeanor and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than one year. In ~~lieu of~~ addition to the criminal penalty provided by this item, the commission may assess a civil penalty of not more than one thousand dollars ~~may be assessed~~ against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was groundless, wilful and without just cause or with malice.”

SECTION 15. Section 2‑17‑140 of the 1976 Code is amended to read:

“Section 2‑17‑140. If an alleged violation is found to be groundless by the State Ethics Commission, the entire matter must be stricken from public record. If the State Ethics Commission finds that the complaining party wilfully filed a groundless complaint, the finding must be reported to the Attorney General. The wilful filing of a groundless complaint by a person with the State Ethics Commission is a misdemeanor, and the person filing a complaint, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year. In ~~lieu of~~ addition to the criminal penalty provided by this section, the commission may assess a civil penalty of not more than one thousand dollars ~~may be assessed~~ against the complainant upon proof, by a preponderance of the evidence, that the filing of the complaint was groundless, wilful and without just cause or with malice.”

Part II

Statements of Economic Interests

SECTION 16. Section 8‑13‑1120 of the 1976 Code, as last amended by Act 6 of 1995, is further amended to read:

“Section 8‑13‑1120. (A) A statement of economic interests filed pursuant to Section 8‑13‑1110 must be on forms prescribed by the State Ethics Commission and must contain full and complete information concerning:

(1) the name, business or government address, and workplace telephone number of the filer;

(2) the source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or a member of the filer’s immediate family during the reporting period;

(3)(a) the description, value, and location of all real property owned and options to purchase real property during the reporting period by a filer or a member of the filer’s immediate family if:

(i) there have been any public improvements of more than two hundred dollars on or adjacent to the real property within the reporting period and the public improvements are known to the filer; or

(ii) the interest can reasonably be expected to be the subject of a conflict of interest; or

(b) if a sale, lease, or rental of personal or real property is to a state, county, or municipal instrumentality of government, a copy of the contract, lease, or rental agreement must be attached to the statement of economic interests;

(4) the name of each organization which paid for or reimbursed actual expenses of the filer for speaking before a public or private group, the amount of such payment or reimbursement, and the purpose, date, and location of the speaking engagement;

(5) the identity of every business or entity in which the filer or a member of the filer’s immediate family held or controlled, in the aggregate, securities or interests constituting five percent or more of the total issued and outstanding securities and interests which constitute a value of one hundred thousand dollars or more;

(6)(a) a listing by name and address of each creditor to whom the filer or member of the filer’s immediate family owed a debt in excess of five hundred dollars at any time during the reporting period, if the creditor is subject to regulation by the filer or is seeking or has sought a business or financial arrangement with the filer’s agency or department other than for a credit card or retail installment contract, and the original amount of the debt and amount outstanding unless:

(i) the debt is promised or loaned by a bank, savings and loan, or other licensed financial institution which loans money in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee; or

(ii) the debt is promised or loaned by an individual’s family member if the person who promises or makes the loan is not acting as the agent or intermediary for someone other than a person named in this subitem; and

(b) the rate of interest charged the filer or a member of the filer’s immediate family for a debt required to be reported in (a);

If a discharge of a debt required to be reported in (a) has been made, the date of the transaction must be shown.

(7) the name of any lobbyist, as defined in Section 2‑17‑10(13) who is:

(a) an immediate family member of the filer;

(b) an individual with whom or business with which the filer or a member of the filer’s immediate family is associated;

(8) if a public official, public member, or public employee receives compensation from an individual or business which contracts with the governmental entity with which the public official, public member, or public employee serves or is employed, the public official, public member, or public employee must report the name and address of that individual or business and the amount of compensation paid to the public official, public member, or public employee by that individual or business;

(9) the source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year from:

(a) a person, if there is reason to believe the donor would not give the gift, gratuity, or favor but for the official’s or employee’s office or position; or

(b) a person, or from an officer or director of a person, if the public official or public employee has reason to believe the person:

(i) has or is seeking to obtain contractual or other business or financial relationship with the official’s or employee’s agency; or

(ii) conducts operations or activities which are regulated by the official’s or employee’s agency if the value of the gift is twenty‑five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year;

(10) a listing of the private source and type of any income received in the previous year by the filer or a member of his immediate family. This item does not include income received pursuant to:

(a) a court order;

(b) interest from a savings or checking account with a bank, savings and loan, or other licensed financial institution which offers savings or checking accounts in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee; or

(c) a mutual fund or similar fund in which an investment company invests its shareholders’ money in a diversified selection of securities;

(11) the source, type, and amount of any income received in the previous year by the filer or a member of his immediate family from a direct contractual or employment relationship to include consulting, acting as an independent contractor, salary, or any other arrangement from which payment in return for services or goods is made by a lobbyist principal, as defined in Section 2‑17‑10, to a filer or a member of his immediate family.

(B) This article does not require the disclosure of economic interests information concerning:

(1) a spouse separated pursuant to a court order from the public official, public member, or public employee;

(2) a former spouse;

(3) a campaign contribution that is permitted and reported under Article 13 of this chapter; or

(4) matters determined to require confidentiality pursuant to Section 2‑17‑90(E).

(C) For purposes of this section, income means anything of value received, which must be reported on a form used by the Internal Revenue Service for the reporting or disclosure of income received by an individual or a business. Income does not include retirement, annuity, pension, IRA, disability, or deferred compensation payments received by the filer or filer’s immediate family member.”

Part III

Definitions Pertaining to Campaign Practices

SECTION 17. Section 8‑13‑1300(6), (7), (23), and (32) of the 1976 Code, as last amended by Act 76 of 2003, is further amended to read:

“(6) ‘Committee’ means an association, a club, an organization, or a group of persons, including a party committee, a legislative caucus committee, or a noncandidate committee, which~~, to influence the outcome of an elective office,~~ has as its major purpose the nomination, election, or defeat of one or more candidates and receives contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle. It also means a person who~~, to influence the outcome of an elective office,~~ has the major purpose to support or oppose the nomination, election, or defeat of one or more candidates and makes:

(a) contributions aggregating at least twenty‑five thousand dollars during an election cycle to or at the request of a candidate or a committee, or a combination of them; or

(b) independent expenditures aggregating five hundred dollars or more during an election cycle for the election or defeat of a candidate.

~~‘Committee’ includes a party committee, a legislative caucus committee, a noncandidate committee, or a committee that is not a campaign committee for a candidate but that is organized for the purpose of influencing an election.~~

(7) ‘Contribution’ means a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit of money, or anything of value made to a candidate or committee to influence an election~~;~~, or payment or compensation for the personal service of another person which is rendered ~~for any purpose~~ to a candidate or committee without charge to influence an election, whether any of the above are made or offered directly or indirectly. ‘Contribution’ does not include ~~(a)~~ volunteer personal services on behalf of a candidate or committee for which the volunteer or any person acting on behalf of or instead of the volunteer receives no compensation either in cash or in‑kind, directly or indirectly, from any source~~; or (b) a gift, subscription, loan, guarantee upon which collection is made, forgiveness of a loan, an advance, in‑kind contribution or expenditure, a deposit of money, or anything of value made to a committee, other than a candidate committee, and is used to pay for communications made not more than forty‑five days before the election to influence the outcome of an elective office as defined in Section 8‑13‑1300(31)(c). These funds must be deposited in an account separate from a campaign account as required in Section 8‑13‑1312~~.

(23) ‘Noncandidate committee’ means a committee that is not a campaign committee for a candidate but ~~is organized to influence an election or to support or oppose a candidate or public official~~ has as its major purpose the nomination, election, or defeat of one or more candidates, which receives contributions or makes expenditures in excess of five hundred dollars in the aggregate during an election cycle. ‘Noncandidate committee’ does not include political action committees that contribute solely to federal campaigns.

(32) ‘Ballot measure committee’ means:

(a) an association, club, an organization, or a group of persons ~~which, to influence the outcome of a ballot measure,~~ whose major purpose is to promote or defeat a ballot measure and receives contributions or makes expenditures in excess of two thousand five hundred dollars in the aggregate during an election cycle;

(b) a person, other than an individual, who, to influence the outcome of a ballot measure, makes contributions aggregating at least fifty thousand dollars during an election cycle to or at the request of a ballot measure committee; or

(c) a person, other than an individual, who, to influence the outcome of a ballot measure, makes independent expenditures aggregating two thousand five hundred dollars or more during an election cycle.”

Part IV

Campaign Contribution Limits and Restrictions

SECTION 18. Section 8‑13‑1314 of the 1976 Code, as last amended by Act 76 of 2003, is further amended to read:

“Section 8‑13‑1314. (A) Within an election cycle, no candidate or anyone acting on his behalf shall solicit or accept, and no person shall give or offer to give to a candidate or person acting on the candidate’s behalf:

(1) a contribution which exceeds:

(a) three thousand five hundred dollars in the case of a candidate for statewide office; or

(b) one thousand dollars in the case of a candidate for any other office;

(2) a cash contribution from an individual unless the cash contribution does not exceed twenty‑five dollars and is accompanied by a record of the amount of the contribution and the name and address of the contributor;

(3) a contribution from, whether directly or indirectly, a registered lobbyist if that lobbyist engages in lobbying the public office or public body for which the candidate is seeking election;

(4) contributions for two elective offices simultaneously, except as provided in Section 8‑13‑1318;

(5) contributions from a noncandidate committee directly or indirectly established, financed, maintained, or controlled by a candidate or public official or any other entity maintained by or affiliated with a candidate or public official. This provision does not apply to legislative caucus committees or political parties nor does this provision prohibit a candidate or public official from making a contribution of their personal funds to a candidate for another office.

(B) The restrictions on contributions in subsections (A)(1) and (A)(2) do not apply to a candidate making a contribution to his own campaign.”

SECTION 19. Section 8‑13‑1340 of the 1976 Code, as last amended by Act 76 of 2003, is further amended to read:

“Section 8‑13‑1340. (A) Except as provided in ~~subsections~~ subsection (B) ~~and (E)~~, a candidate or public official shall not make a contribution to another candidate or make an independent expenditure on behalf of another candidate or public official from the candidate’s or public official’s campaign account or through a committee, except legislative caucus committees, directly or indirectly established, financed, maintained, or controlled by the candidate or public official.

(B) This section does not prohibit a candidate from:

(1) making a contribution from the candidate’s own personal funds on behalf of the candidate’s candidacy or to another candidate for a different office; or

(2) providing the candidate’s surplus funds or material assets upon final disbursement to a legislative caucus committee or party committee in accordance with the procedures for the final disbursement of a candidate under Section 8‑13‑1370 of this article.

(C) Assets or funds which are the proceeds of a campaign contribution and which are held by or under the control of a public official or a candidate for public office on January 1, 1992, are considered to be funds held by a candidate and subject to subsection (A).

(D) A committee is considered to be directly or indirectly established, financed, maintained, or controlled by a candidate or public official if any of the following are applicable:

(1) the candidate or public official, or an agent of either, has signature authority on the committee’s checks;

(2) funds contributed or disbursed by the committee are authorized or approved by the candidate or public official;

(3) the candidate or public official is clearly identified on either the stationery or letterhead of the committee;

(4) the candidate or public official signs solicitation letters or other correspondence on behalf of the entity;

(5) the candidate, public official, or his campaign staff, office staff, or immediate family members, or any other agent of either, has the authority to approve, alter, or veto the committee’s solicitations, contributions, donations, disbursements, or contracts to make disbursements; or

(6) the committee pays for travel by the candidate or public official, his campaign staff or office staff, or any other agent of the candidate or public official, in excess of one hundred dollars per calendar year.

~~(E)~~ ~~The provisions of subsection (A) do not apply to a committee directly or indirectly established, financed, maintained, or controlled by a candidate or public official if the candidate or public official directly or indirectly establishes, finances, maintains, or controls only one committee in addition to any committee formed by the candidate or public official to solely promote his own candidacy and one legislative caucus committee.~~

~~(F)~~ ~~No committee operating under the provisions of Section 8‑13‑1340(E) may:~~

~~(1)~~ ~~solicit or accept a contribution from a registered lobbyist if that lobbyist engages in lobbying the public office or public body for which the candidate is seeking election; or~~

~~(2)~~ ~~transfer anything of value to any other committee except as a contribution under the limitations of Section 8‑13‑1314(A) or the dissolution provisions of Section 8‑13‑1370.~~”

Part V

Mandatory Reports by a Person who is not a Committee, Electioneering Communication Defined

SECTION 20. Article 13, Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑1313. A person who is not a committee required to file subject to Section 8‑13‑1304 and who makes an independent expenditure in an aggregate amount or value in excess of five hundred dollars during a calendar year or makes an electioneering communication must file a report of the expenditure or communication with the State Ethics Commission electronically in the manner prescribed by the commission pursuant to Section 8‑13‑365 within thirty days of the expenditure being made, or if the independent expenditure or electioneering communication is made within thirty days before an election, the report must be filed within forty‑eight hours of the expenditure being made. The report must include:

(1) a detailed description of the use of the expenditure or communication and the amount of the expenditure or the cost of the communication;

(2) the full name, primary occupation of the reporting person, as well as the physical address and phone number for the residence or place of business for the reporting person;

(3) the identification of the chief executive officer or for all controlling individuals if the reporting person is a business or another organization that is not an individual, to include name, title, employer, and address;

(4) the name of the candidate or ballot measure that is the subject of the independent expenditure or electioneering communication and whether the expenditure or communication was made in support of, or opposition to, the candidate or ballot measure;

(5) the chief executive officer or controlling individual must file, under penalty of perjury, a certification that the independent expenditure is not made in cooperation, consultation, or coordination with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate; and

(6)(a) the identification of each person or entity making a donation of more than one hundred dollars to the entity filing the report if the donation was made to further the reported independent expenditure or electioneering communication.

(b) If the donor is an individual, the statement shall include the name, primary occupation, address, and amount of the donation.

(c) If the donor is a business or another organization that is not an individual, then the identification shall indicate the name and title of the chief executive officer or the controlling individual of the donor organization, and include the address and amount of the donation.

(7) For the purposes of item (6) of this section, a donation to the person or entity making the independent expenditure or electioneering communication is deemed to have been donated to further the independent expenditure or electioneering communication if any of items (1) through (4) of this section apply. For purposes of this section, the ‘filer’ is the person or entity making the independent expenditure or electioneering communication and responsible for filing the report, or an agent of that person or entity. For purposes of this section, the ‘donor’ is the person or entity donating to the filer the funds or other thing of value, or an agent of that person or entity.

(a) The donor designates, requests, or suggests that the donation be used for an independent expenditure or electioneering communication or for multiple independent expenditures or electioneering communication, and the filer agrees to use the donation for an independent expenditure or electioneering communication.

(b) The filer expressly solicited the donor for a donation for making or paying for an independent expenditure or electioneering communication.

(c) The donor and the filer engaged in substantial written or oral discussion regarding the donor’s making, donating, or paying for an independent expenditure or electioneering communication.

(d) The donor or the filer knew or had reason to know of the filer’s intent to make independent expenditures or electioneering communications with the donation.

A donation must not be deemed to be made to further an independent expenditure or electioneering communication if the donation was a commercial transaction occurring in the ordinary course of business between the donor and the filer unless there is affirmative evidence that the amounts were donated to further an independent expenditure or electioneering communication. In determining the amount of a donation that was made to further a particular independent expenditure or electioneering communication, there must be excluded any amount that was designated by the donor with respect to a different election than the election that is the subject of the independent expenditure or electioneering communication covered by the report.”

SECTION 21. Section 8‑13‑1300 of the 1976 Code, as last amended by Act 245 of 2008, is further amended by adding at the end:

“(35)(a) ‘Electioneering communication’ means a broadcast, cable, or satellite communication or mass postal mailing or telephone bank that has the following characteristics:

(1) refers to a clearly identified candidate for elected office or ballot measure; and

(2) that is publicly aired or distributed within sixty days prior to a general election or within thirty days prior to a primary election for that office.

(b) ‘Electioneering communication’ does not mean:

(1) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless those facilities are owned or controlled by a political party, political committee, or candidate;

(2) a communication that constitutes an expenditure or independent expenditure pursuant to this article;

(3) a communication that constitutes a candidate debate or forum conducted pursuant to rules adopted by a political party or that solely promotes that debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

(4) a communication that meets all of the following criteria:

(i) does not mention any election, candidacy, political party, opposing candidate, or voting by the general public;

(ii) does not take a position on the candidate’s character or qualifications and fitness for office; and

(iii) proposes a commercial transaction.”

Part VI

Attribution of Campaign Contributions

SECTION 22. Section 8‑13‑1320 of the 1976 Code, as added by Act 248 of 1991, is amended to read:

“Section 8‑13‑1320. For purposes of this article:

(1) A contribution made on or before the seventh day after a primary ~~or primary runoff~~ is attributed to the primary, unless there is a primary runoff ~~or primary runoff, respectively~~.

(2) If there is a primary runoff, a contribution made after the date of the primary and through the date of the primary runoff is attributed to the primary runoff.

(3) A contribution made on or before the end of the quarter immediately following a general election or special election is attributed to the general election or special election, respectively.”

Part VII

Candidate Defined, Disclosure of Campaign Records

SECTION 23. Section 8‑13‑100(5) of the 1976 Code, as last amended by Act 6 of 1995, is further amended to read:

“(5) ‘Candidate’ means a person who seeks appointment, nomination for election, or election to a state or local office, ~~or~~ authorizes or knowingly permits the collection or disbursement of money for the promotion of his candidacy or election, or maintains an open bank account containing contributions. It also means a person on whose behalf write‑in votes are solicited if the person has knowledge of ~~such~~ the solicitation. ‘Candidate’ does not include a person within the meaning of Section 431(b) of the Federal Election Campaign Act of 1976.”

SECTION 24. Section 8‑13‑1300(4) of the 1976 Code, as last amended by Act 76 of 2003, is further amended to read:

“(4) ‘Candidate’ means a person:

(a) ~~a person~~ who seeks appointment, nomination for election, or election to a statewide or local office, or authorizes or knowingly permits the collection or disbursement of money for the promotion of his candidacy or election;

(b) ~~a person~~ who is exploring whether or not to seek election at the state or local level; ~~or~~

(c) ~~a person~~ on whose behalf write‑in votes are solicited if the person has knowledge of ~~such~~ the solicitation; or

(d) who maintains an open bank account containing contributions. ‘Candidate’ does not include a candidate within the meaning of Section 431(b) of the Federal Election Campaign Act of 1976.”

SECTION 25. Section 8‑13‑1302 of the 1976 Code, as last amended by Act 76 of 2003 is further amended to read:

“Section 8‑13‑1302. (A) A candidate, committee, or ballot measure committee must maintain and preserve an account of:

(1) the total amount of contributions accepted by the candidate, committee, or ballot measure committee;

(2) the name and address of each person making a contribution and the amount and date of receipt of each contribution;

(3) the total amount of expenditures made by or on behalf of the candidate, committee, or ballot measure committee;

(4) the name and address of each person to whom an expenditure is made including the date, amount, purpose, and beneficiary of the expenditure;

(5) all receipted bills, canceled checks, or other proof of payment for each expenditure; and

(6) the occupation of each person making a contribution.

(B) The candidate, committee, or ballot measure committee must maintain and preserve all receipted bills and accounts required by this article for four years.

(C) An appropriate supervisory office may request in writing, disclosure of any records required to be maintained by this section, subject to the limitations of Section 8‑13‑320(9)(d). This request must be for purposes of verifying campaign disclosure forms filed pursuant to Section 8‑13‑1308. A candidate, committee, or ballot measure committee must comply with a written request from an appropriate supervisory office within thirty days.”

Part VIII

Acts Prohibited of Lobbyists’ Principals, Prohibited Use of Campaign Funds to Defray Personal Expenses

SECTION 26. Section 2‑17‑90(A)(1) of the 1976 Code is amended to read:

“(A) Except as otherwise provided under Section 2‑17‑100, no lobbyist’s principal may offer, solicit, facilitate, or provide to a public official or public employee, and no public official or public employee may accept lodging, transportation, entertainment, food, meals, beverages, or an invitation to a function paid for by a lobbyist’s principal, except for:

(1) as to members of the General Assembly, a function to which a member of the General Assembly is invited if the entire membership of the House, the Senate, or the General Assembly is invited, or one of the committees, subcommittees, joint committees, legislative caucuses or their committees or subcommittees, or county legislative delegations of the General Assembly of which the legislator is a member is invited. However, the Speaker of the House and Speaker Pro Tempore of the House may be included in an invitation to one of the above groups. In addition, invitations may be extended and accepted when the invitation is extended to all members in attendance at ~~(a)~~ national and regional conventions and conferences of organizations for which the General Assembly pays annual dues as a membership requirement ~~and (b) American Legislative Exchange Council conventions and conferences~~;”

SECTION 27. Section 8‑13‑1348 of the 1976 Code, as last amended by Act 225 of 2010, is further amended to read:

“Section 8‑13‑1348. (A) No candidate, committee, public official, or political party may use campaign funds to defray personal expenses which are unrelated to the campaign or the office if the candidate is an officeholder nor may these funds be converted to personal use. The prohibition of this subsection does not extend to the incidental personal use of campaign materials or equipment nor to an expenditure used to defray any ordinary expenses incurred in connection with an individual’s duties as a holder of elective office. Personal expenses include:

(1) fines, fees or other charges imposed by an appropriate supervisory office; or

(2) fines, fees, or charges imposed by a court as a result of a criminal matter.

(B) The payment or reimbursement of reasonable and necessary ~~travel~~ expenses ~~or for food or beverages consumed by the candidate or members of his immediate family while at, and in connection with, a political event are permitted~~ associated with the campaign or the office are permitted; however:

(1) a payment or reimbursement of mileage for travel associated with the campaign or office must be at the rate established for the year by the Internal Revenue Service;

(2) the payment or reimbursement for any lodging, food and beverage, or travel expenses, other than mileage, for the candidate, a member of the candidate’s immediate family or staff must be for travel for the purpose of campaigning for office or otherwise a part of the official responsibilities of an officeholder. Official responsibilities of the officeholder include events to which an officeholder is invited in his official capacity to include, but not limited to, political party events, official appearances or meetings for which reimbursement is not offered by a governmental entity, educational forums and conventions;

(3) communication or other office equipment purchased with campaign funds including, but not limited to, cell phones, computers, printers, copiers, and other similar devices are considered the sole property of the campaign and must be disclosed as assets of the campaign at the time of purchase. Further, this equipment must be accounted for pursuant to Sections 8‑13‑1368 and 8‑13‑1370 upon the final disbursement of a campaign account; and

(4) payments to campaign or office staff must be made contemporaneously with the work provided. A campaign may not compensate an immediate family member of the candidate.

(C)(1) An expenditure ~~of more than twenty‑five dollars~~ drawn upon a campaign account must be made by:

(a) a ~~written instrument~~ check drawn upon a campaign account;

(b) debit or credit card; or

(c) online transfers.

(2) ~~The campaign account must contain the name of the candidate or committee, and the expenditure must contain the name of the recipient.~~ These expenditures must be reported pursuant to the provisions of Section 8‑13‑1308.

~~(2)~~ ~~Expenditures of twenty‑five dollars or less that are not made by a written instrument, debit card, or online transfer containing the name of the candidate or committee and the name of the recipient must be accounted for by a written receipt or written record.~~

(3) Nothing in this section applies to an expenditure of funds not contained in a campaign bank account.

(D) An expenditure may not be made that is clearly in excess of the fair market value of services, materials, facilities, or other things of value received in exchange.

~~(E)~~ ~~A candidate or a duly authorized officer of a committee may not withdraw more than one hundred dollars from the campaign account to establish or replenish a petty cash fund for the candidate or committee at any time, and at no time may the fund exceed one hundred dollars. Expenditures from the petty cash fund may be made only for office supplies, food, transportation expenses, and other necessities and may not exceed twenty‑five dollars for each expenditure.~~”

Part IX

Contents of Certified Campaign Reports

SECTION 28. Section 8‑13‑1308 of the 1976 Code, as last amended by Act 245 of 2008, is further amended to read:

“Section 8‑13‑1308. (A) Upon the receipt or expenditure of campaign contributions or the making of independent expenditures totaling an accumulated aggregate of five hundred dollars or more, a candidate or committee required to file a statement of organization pursuant to Section 8‑13‑1304(A) must file an initial certified campaign report within ten days of these initial receipts or expenditures. However, a candidate who does not receive or expend campaign contributions totaling an accumulated aggregate of five hundred dollars or more must file an initial certified campaign report fifteen days before an election.

(B) Following the filing of an initial certified campaign report, additional certified campaign reports must be filed within ten days following the end of each calendar quarter in which contributions are received or expenditures are made, whether before or after an election, until the campaign account undergoes final disbursement pursuant to the provisions of Section 8‑13‑1370.

(C) Campaign reports filed by a candidate must be certified by the candidate. Campaign reports filed by a committee must be certified by a duly authorized officer of the committee.

(D)(1) At least fifteen days before an election, a certified campaign report must be filed showing contributions of more than one hundred dollars and expenditures to or by the candidate or committee for the period ending twenty days before the election. The candidate or committee must maintain a current list during the period before the election commencing at the beginning of the calendar quarter of the election of all contributions of more than one hundred dollars and expenditures. The list must be open to public inspection upon request.

(2) A committee immediately shall file a campaign report listing expenditures if it makes an independent expenditure or an incurred expenditure within the calendar quarter in which the election is conducted or twenty days before the election, whichever period of time is greater, in excess of:

(a) ten thousand dollars in the case of a candidate for statewide office; or

(b) two thousand dollars in the case of a candidate for any other office.

(3) In the event of a runoff election, candidates or committees are not required to file another campaign report in addition to the reports already required under this section. However, records must remain open to public inspection upon request between the election and the runoff.

(E) Seventy‑two hours before an election, a certified campaign report must be filed showing contributions of more than one hundred dollars and expenditures to or by the candidate or committee for the period commencing at least twenty days before the election and ending seventy‑two hours before the election.

~~(E)~~(F) Notwithstanding the provisions of subsections (B) and (D), if a ~~pre‑election~~ preelection campaign report provided for in subsection (D) is required to be filed within thirty days of the end of the prior quarter, a candidate or committee must combine the quarterly report provided for in subsection (B) and the ~~pre‑election~~ preelection report and file the combined report subject to the provisions of subsection (D) no later than fifteen days before the election.

~~(F)~~(G) Certified campaign reports detailing campaign contributions and expenditures must contain:

(1) the total of contributions accepted by the candidate or committee;

(2) the name and address of each person making a contribution of more than one hundred dollars and the amount and date of receipt of each contribution;

(3) the total expenditures made by or on behalf of the candidate or committee; and

(4) the name and address of each person to whom an expenditure is made from campaign funds, including the date, amount, purpose, and beneficiary of the expenditure.

~~(G)~~(H) Notwithstanding any other reporting requirements in this chapter, a political party, legislative caucus committee, and a party committee must file a certified campaign report upon the receipt of anything of value which totals in the aggregate five hundred dollars or more. For purposes of this section, ‘anything of value’ includes contributions received which may be used for the payment of operation expenses of a political party, legislative caucus committee, or a party committee. A political party also must comply with the reporting requirements of subsections (B), (C), and ~~(F)~~ (G) of Section 8‑13‑1308 in the same manner as a candidate or committee.

~~(H)~~(I) A committee that solicits contributions pursuant to Section 8‑13‑1331 must certify compliance with that section on a form prescribed by the State Ethics Commission.”

Part X

Acceptance of Campaign Contributions to Retire Campaign Debt

SECTION 29. Section 8‑13‑1318 of the 1976 Code, as added by Act 248 of 1991, is amended to read:

“Section 8‑13‑1318. (A) If a candidate has a debt from a campaign for an elective office, the candidate may accept contributions to retire the debt, even if the candidate accepts contributions for another elective office or the same elective office during a subsequent election cycle, as long as those contributions accepted to retire the debt are:

(1) within the contribution limits applicable to the last election in which the candidate sought the elective office for which the debt was incurred; and

(2) reported as provided in this article.

(B) Contributions received pursuant to this section must be used for the sole purpose of retiring campaign debt.”

Part XI

Provisions Inapplicable to Certain Employees of Institutions of Higher Learning

SECTION 30. Chapter 13, Title 8 of the 1976 Code is amended by adding:

“Section 8‑13‑756. The provisions of Sections 8‑13‑700, 8‑13‑710, 8‑13‑715, and 8‑13‑755 do not apply to a public employee of an institution of higher learning who participates in the development of intellectual property that benefits the institution and the State of South Carolina, provided that the institution of higher learning retains some royalty rights to the intellectual property.”

Part XII

Whistleblower Protections

SECTION 31. Chapter 27, Title 8 of the 1976 Code is amended by adding:

“Section 8‑27‑05. This chapter may be cited as the ‘South Carolina Whistleblower and Public Employee Protection Act’.”

SECTION 32. Section 8‑27‑10(3) of the 1976 Code, as added by Act 164 of 1993, is amended to read:

“(3) ‘Appropriate authority’ means, respectively, the public body that employs the person making the report; or a federal, state, or local governmental body, agency, or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or wrongdoing. If a report is made to an entity other than the public body employing the person making the report, the employing public body must be notified as soon as practicable by the entity that received the report. The term includes, but it is not limited to, the Inspector General, the South Carolina Law Enforcement Division, the Solicitor’s Office, the State Ethics Commission, the State Auditor, the Legislative Audit Council, and the Office of Attorney General.”

SECTION 33. Section 8‑27‑20 of the 1976 Code, as last amended by Act 164 of 1993, is further amended to read:

“Section 8‑27‑20. (A) ~~No~~ A public body may not dismiss, suspend from employment, demote, or decrease the compensation of an employee of a public body because the employee files a written report with an appropriate authority of wrongdoing. If the appropriate authority determines the employee’s report is unfounded, or amounts to a mere technical violation, and is not made in good faith, the public body may take disciplinary action including termination. Any public body covered by this chapter may impose disciplinary sanctions, in accordance with its internal disciplinary procedures, against any of its direct line supervisory employees who retaliate against another employee for having filed a good faith report under this chapter.

(B) If the employee’s report results in a saving of any public money from the abuses described in this chapter, twenty‑five percent of the estimated net savings resulting from the first year of implementation of the employee’s report~~, but not more than two thousand dollars,~~ must be rewarded to the employee by the public body as determined by the ~~State Budget and Control Board~~ Director of the Department of Administration. This chapter does not supersede the State Employee Suggestion Program. For employees of state agencies participating in the program, items that they identify involving wrongdoing must be referred as a suggestion to the program by the employee. An employee is entitled to only one reward either under this section or under the program, at the employee’s option. In the event multiple employees report the same abuse, the employees may not receive more in total than the twenty‑five percent estimated net savings resulting from the first year of implementation of the employees’ report. The Director of the Department of Administration will determine the appropriate awards.”

SECTION 34. Section 8‑27‑30 of the 1976 Code, as last amended by Act 164 of 1993, is further amended to read:

“Section 8‑27‑30. (A) If an employee is dismissed, suspended from employment, demoted, or receives a decrease in compensation, ~~within one year~~ after having timely reported an alleged wrongdoing under this chapter, the employee may institute a ~~nonjury~~ civil action against the employing public body for:

(1) reinstatement to his former or an equivalent position;

(2) compensation for lost wages and health care or retirement benefits;

(3) actual damages ~~not to exceed fifteen thousand dollars~~ that result directly from the temporary or permanent loss of health care or retirement benefits; and

(4) reasonable attorney fees as determined by the court, ~~but this award of attorney fees may not exceed ten thousand dollars for any trial and five thousand dollars for any appeal~~ not to exceed one third of the total recovery by the employee.

The action must be brought in the court of common pleas of the county in which the employment action occurred. ~~No~~ An action may not be brought under this chapter unless:

(1) the employee has exhausted all available grievance or other administrative remedies; and

(2) any previous proceedings have resulted in a finding that the employee would not have been disciplined but for the reporting of alleged wrongdoing.

(B) An action under this chapter ~~must be commenced within one year after the accrual of the cause of action or exhaustion of all available grievance or other administrative and judicial remedies or~~ is forever barred unless it is commenced within one year after the later of the following, the:

(1) dismissal, suspension, demotion, or decrease in compensation;

(2) exhaustion of all available grievance or other administrative and judicial remedies; or

(3) termination of the employment relationship between the employee and the public body against whom the employee’s report was made.”

Part XIII

Miscellaneous

SECTION 35. Sections 8‑13‑705, 8‑13‑720, 8‑13‑725, 8‑13‑750, 8‑13‑755, and 8‑13‑760 of the 1976 Code are repealed.

SECTION 36. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 37. Sections 1 through 6 of this act take effect on July 1, 2015, except that the election or appointment of members of the State Ethics Commission as provided for in Section 8‑13‑310 of the 1976 Code, as amended by this act, may take place upon the signature of this act by the Governor so that these members may take office and begin serving on July 1, 2015. The remaining sections of this act take effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑