

Chapter 16 County Officers

Part 1 General Provisions

17-16-1 Eligibility and residency requirements for county, district, precinct, or prosecution district office.

- (1) A person filing a declaration of candidacy for a county, district, precinct, or prosecution district office shall:
 - (a) be a United States citizen;
 - (b) except as provided in Section 20A-1-509.2 with respect to the office of county attorney or district attorney, as of the date of the election, have been a resident for at least one year of the county, district, precinct, or prosecution district in which the person seeks office; and
 - (c) be a registered voter in the county, district, precinct, or prosecution district in which the person seeks office.
- (2)
 - (a) A county, district, precinct, or prosecution district officer shall maintain residency within the county, district, precinct, or prosecution district in which the officer was elected during the officer's term of office.
 - (b) If a county, district, precinct, or prosecution district officer establishes the officer's principal place of residence as provided in Section 20A-2-105 outside the county, district, precinct, or prosecution district in which the officer was elected, the office is automatically vacant.

Amended by Chapter 237, 2013 General Session

17-16-2.5 Creation of Office of District Attorney.

For each prosecution district created in accordance with Chapter 18a, Part 7, Prosecution District, there is created the Office of District Attorney.

Amended by Chapter 237, 2013 General Session

17-16-3 Consolidation of offices.

- (1) A county legislative body may, unless prohibited by Subsection (2), pass an ordinance that:
 - (a) consolidates county offices and establishes the duties of those consolidated offices;
 - (b) separates any previously consolidated offices and reconsolidates them; or
 - (c) separates any previously consolidated offices without reconsolidating them.
- (2) A county legislative body may not:
 - (a) consolidate the offices of county commissioner, county council member, or county treasurer with the office of county auditor;
 - (b) consolidate the office of county executive with the office of county auditor, unless a referendum approving that consolidation passes; or
 - (c) consolidate the offices of county commissioner, county council member, county executive, county assessor, or county auditor with the office of county treasurer.
- (3) Each county legislative body shall ensure that any ordinance consolidating or separating county offices:
 - (a) is enacted before the February 1 of the year in which county officers are elected; and

- (b) takes effect on the first Monday in January after the year in which county officers are elected.
- (4)
- (a) Each county legislative body shall:
 - (i) enact an ordinance by February 1, 2010, separating any county offices that are prohibited from consolidation by this section; and
 - (ii) publish, by February 15, 2010, a notice once in a newspaper of general circulation in the county identifying the county offices that will be filled in the November 2010 election.
 - (b)
 - (i) If a county legislative body has, by February 1, 2006, enacted an ordinance, in compliance with this Subsection (4) then in effect, separating county offices that are prohibited from consolidation by this section, the county legislative body may repeal that ordinance.
 - (ii) If a county legislative body has published notice in a newspaper identifying the county offices that will be filled in the November 2006 election, and that notice, because of a repeal of an ordinance under Subsection (4)(b)(i), is incorrect, the county legislative body shall publish notice once in a newspaper of general circulation in the county indicating that the previous notice was incorrect and correctly identifying the county offices that will be filled in the November 2006 election.

Amended by Chapter 3, 2006 General Session

17-16-4 Election of officer to consolidated office.

When offices are united and consolidated:

- (1) only one person shall be elected to fill the united and consolidated offices; and
- (2) the person elected shall:
 - (a) take the oath and give the bond required for each of the offices; and
 - (b) discharge all the duties pertaining to each of the offices.

Amended by Chapter 297, 2011 General Session

17-16-5.5 Reassignment of certain assessor duties to treasurer.

A county legislative body may by ordinance reassign to the treasurer the duties of the assessor under Sections 41-1a-1320, 59-2-407, 59-2-1302, 59-2-1303, and 59-2-1305.

Amended by Chapter 39, 2006 General Session

17-16-6 County officers -- Time of holding elections -- County commissioners -- Terms of office.

- (1) Except as otherwise provided in an optional plan adopted under Chapter 52, Changing Forms of County Government:
 - (a) each elected county officer shall be elected at the regular general election every four years in accordance with Section 20A-1-201, except as otherwise provided in this title;
 - (b) county commissioners shall be elected at the times, in the manner, and for the terms provided in Section 17-52-501; and
 - (c) an elected officer shall hold office for the term for which the officer is elected, beginning at noon on the first Monday in January following the officer's election and until a successor is elected or appointed and qualified, except as provided in Section 17-16-1.
- (2)
 - (a) The terms of county officers shall be staggered in accordance with this Subsection (2).

- (b) Except as provided in Subsection (2)(c), in the 2014 general election:
 - (i) the following county officers shall be elected to one six-year term and thereafter elected to a four-year term:
 - (A) county treasurer;
 - (B) county recorder;
 - (C) county surveyor; and
 - (D) county assessor; and
 - (ii) all other county officers shall be elected to a four-year term.
- (c) If a county legislative body consolidates two or more county offices in accordance with Section 17-16-3, and the consolidated offices are on conflicting election schedules, the county legislative body shall pass an ordinance that sets the election schedule for the consolidated offices in a reasonable manner that staggers the terms of county officers as provided in this Subsection (2).

Amended by Chapter 16, 2014 General Session

17-16-6.5 Campaign financial disclosure in county elections.

- (1)
 - (a) A county shall adopt an ordinance establishing campaign finance disclosure requirements for:
 - (i) candidates for county office; and
 - (ii) candidates for local school board office who reside in that county.
 - (b) The ordinance required by Subsection (1)(a) shall include:
 - (i) a requirement that each candidate for county office or local school board office report the candidate's itemized and total campaign contributions and expenditures at least once within the two weeks before the election and at least once within two months after the election;
 - (ii) a definition of "contribution" and "expenditure" that requires reporting of nonmonetary contributions such as in-kind contributions and contributions of tangible things;
 - (iii) a requirement that the financial reports identify:
 - (A) for each contribution, the name of the donor of the contribution, if known, and the amount of the contribution; and
 - (B) for each expenditure, the name of the recipient and the amount of the expenditure;
 - (iv) a requirement that a candidate for county office or local school board office deposit a contribution in a separate campaign account in a financial institution;
 - (v) a prohibition against a candidate for county office or local school board office depositing or mingling any contributions received into a personal or business account; and
 - (vi) a requirement that a candidate for county office who receives a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown, shall, within 30 days after receiving the contribution, disburse the amount of the contribution to:
 - (A) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or
 - (B) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.
 - (c)
 - (i) As used in this Subsection (1)(c), "account" means an account in a financial institution:
 - (A) that is not described in Subsection (1)(b)(iv); and
 - (B) into which or from which a person who, as a candidate for an office, other than a county office for which the person files a declaration of candidacy or federal office, or as a holder

of an office, other than a county office for which the person files a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.

- (ii) The ordinance required by Subsection (1)(a) shall include a requirement that a candidate for county office or local school board office include on a financial report filed in accordance with the ordinance a contribution deposited in or an expenditure made from an account:
 - (A) since the last financial report was filed; or
 - (B) that has not been reported under a statute or ordinance that governs the account.
- (2) If any county fails to adopt a campaign finance disclosure ordinance described in Subsection (1), candidates for county office, other than community council office, and candidates for local school board office shall comply with the financial reporting requirements contained in Subsections (3) through (8).
- (3) A candidate for elective office in a county or local school board office:
 - (a) shall deposit a contribution in a separate campaign account in a financial institution; and
 - (b) may not deposit or mingle any contributions received into a personal or business account.
- (4) Each candidate for elective office in any county who is not required to submit a campaign financial statement to the lieutenant governor, and each candidate for local school board office, shall file a signed campaign financial statement with the county clerk:
 - (a) seven days before the date of the regular general election, reporting each contribution and each expenditure as of 10 days before the date of the regular general election; and
 - (b) no later than 30 days after the date of the regular general election.
- (5)
 - (a) The statement filed seven days before the regular general election shall include:
 - (i) a list of each contribution received by the candidate, and the name of the donor, if known; and
 - (ii) a list of each expenditure for political purposes made during the campaign period, and the recipient of each expenditure.
 - (b) The statement filed 30 days after the regular general election shall include:
 - (i) a list of each contribution received after the cutoff date for the statement filed seven days before the election, and the name of the donor; and
 - (ii) a list of all expenditures for political purposes made by the candidate after the cutoff date for the statement filed seven days before the election, and the recipient of each expenditure.
- (6)
 - (a) As used in this Subsection (6), "account" means an account in a financial institution:
 - (i) that is not described in Subsection (3)(a); and
 - (ii) into which or from which a person who, as a candidate for an office, other than a county office for which the person filed a declaration of candidacy or federal office, or as a holder of an office, other than a county office for which the person filed a declaration of candidacy or federal office, deposits a contribution or makes an expenditure.
 - (b) A county office candidate and a local school board office candidate shall include on any campaign financial statement filed in accordance with Subsection (4) or (5):
 - (i) a contribution deposited in an account:
 - (A) since the last campaign finance statement was filed; or
 - (B) that has not been reported under a statute or ordinance that governs the account; or
 - (ii) an expenditure made from an account:
 - (A) since the last campaign finance statement was filed; or
 - (B) that has not been reported under a statute or ordinance that governs the account.

- (7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds \$50, and is from a donor whose name is unknown, a county office candidate shall disburse the amount of the contribution to:
 - (a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or
 - (b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.
- (8) Candidates for elective office in any county, and candidates for local school board office, who are eliminated at a primary election shall file a signed campaign financial statement containing the information required by this section not later than 30 days after the primary election.
- (9) Any person who fails to comply with this section is guilty of an infraction.
- (10)
 - (a) Counties may, by ordinance, enact requirements that:
 - (i) require greater disclosure of campaign contributions and expenditures; and
 - (ii) impose additional penalties.
 - (b) The requirements described in Subsection (10)(a) apply to a local school board office candidate who resides in that county.
- (11) If a candidate fails to file an interim report due before the election, the county clerk:
 - (a) may send an electronic notice to the candidate and the political party of which the candidate is a member, if any, that states:
 - (i) that the candidate failed to timely file the report; and
 - (ii) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified and the political party will not be permitted to replace the candidate; and
 - (b) impose a fine of \$100 on the candidate.
- (12)
 - (a) The county clerk shall disqualify a candidate and inform the appropriate election officials that the candidate is disqualified if the candidate fails to file an interim report described in Subsection (11) within 24 hours after the deadline for filing the report.
 - (b) The political party of a candidate who is disqualified under Subsection (12)(a) may not replace the candidate.
- (13) If a candidate is disqualified under Subsection (12)(a) the election official:
 - (a)
 - (i) shall, if practicable, remove the name of the candidate by blacking out the candidate's name before the ballots are delivered to voters; or
 - (ii) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and
 - (b) may not count any votes for that candidate.
- (14) An election official may fulfill the requirement described in Subsection (13)(a) in relation to an absentee voter, including a military or overseas absentee voter, by including with the absentee ballot a written notice directing the voter to a public website that will inform the voter whether a candidate on the ballot is disqualified.
- (15) A candidate is not disqualified if:
 - (a) the candidate files the interim reports described in Subsection (11) no later than 24 hours after the applicable deadlines for filing the reports;
 - (b) the reports are completed, detailing accurately and completely the information required by this section except for inadvertent omissions or insignificant errors or inaccuracies; and

- (c) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

(16)

- (a) A report is considered timely filed if:
 - (i) the report is received in the county clerk's office no later than midnight, Mountain Time, at the end of the day on which the report is due;
 - (ii) the report is received in the county clerk's office with a United States Postal Service postmark three days or more before the date that the report was due; or
 - (iii) the candidate has proof that the report was mailed, with appropriate postage and addressing, three days before the report was due.
- (b) For a county clerk's office that is not open until midnight at the end of the day on which a report is due, the county clerk shall permit a candidate to file the report via email or another electronic means designated by the county clerk.

(17)

- (a) Any private party in interest may bring a civil action in district court to enforce the provisions of this section or any ordinance adopted under this section.
- (b) In a civil action filed under Subsection (17)(a), the court shall award costs and attorney fees to the prevailing party.

(18) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the county clerk shall:

- (a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and
- (b) make the campaign finance statement filed by a candidate available for public inspection by:
 - (i)
 - (A) posting an electronic copy or the contents of the statement on the county's website no later than seven business days after the statement is filed; and
 - (B) verifying that the address of the county's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or
 - (ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

Amended by Chapter 16, 2016 General Session

Amended by Chapter 409, 2016 General Session

17-16-7 Deputies and employees -- Appointments -- County legislative body consent power -- Liability of principal -- Deputy may serve despite vacancy in office of appointing officer.

(1)

- (a) A county or precinct officer, including an elected county executive, except a county commissioner or county council member, may, with the consent of the county legislative body, appoint deputies and employees as necessary for the discharge of the duties of the officer's office.
- (b) The county legislative body's consent power under Subsection (1)(a) shall be defined in county ordinance and may include consent by:
 - (i) the budget approval process;
 - (ii) approval of an allocation of a certain number of positions; or
 - (iii) approval or disapproval of the hiring of individual applicants.

- (c) A county legislative body may by ordinance delegate to the county executive the authority to consent to the appointment of deputies and employees under this Subsection (1).
- (2) If the county clerk performs district court clerk functions, the legislative body of that county shall provide the clerk with deputies and employees for the business of the district courts as considered necessary and advisable by the judge or judges of the district court, consistent with the level of funding for clerk services from the court administrator's office.
- (3)
 - (a) Each officer appointing a deputy shall, for each deputy appointed, file a signed writing with the county clerk that memorializes the appointment.
 - (b) The officer appointing the deputy is liable for all official acts of the deputy.
 - (c) If the office of the officer who appointed the deputy becomes vacant, the deputy may continue to serve despite the vacancy.

Amended by Chapter 241, 2001 General Session

17-16-8 Powers, duties and liabilities of deputies.

Whenever the official name of any principal officer is used in any law conferring powers or imposing duties or liabilities it includes deputies.

No Change Since 1953

17-16-9 Officers at county seats -- Office hours.

- (1) The elected county officers of all counties, except those in counties having a population of less than 8,000, shall have their offices at the county seats.
- (2)
 - (a) In all counties the clerk, sheriff, recorder, auditor, treasurer, assessor, and attorney shall keep their offices open for the transaction of business as authorized by resolution of the county legislative body.
 - (b) If the county legislative body does not authorize hours of operation for Saturdays, then the hours served by the employees of the county may not be less than under their present schedule.
 - (c)
 - (i) Any act authorized, required, or permitted to be performed at or by, or with respect to, any county office on a Saturday when the county office is closed, may be performed on the next business day.
 - (ii) No liability or loss of rights of any kind may result from the delay described in Subsection (2)(c)(i).

Amended by Chapter 297, 2011 General Session

17-16-10.5 Failure to perform duties constitutes malfeasance in office -- Felony charges arising from official duties -- Paid administrative leave -- Reassignment of duties.

- (1) The failure of an elected county or prosecution district officer substantially to perform the officer's official duties constitutes malfeasance in office under Section 77-6-1.
- (2)
 - (a) If an elected county or prosecution district officer is charged with the commission of a felony arising from conduct related to the officer's official duties, the officer shall be placed on paid administrative leave by the county legislative body until:

- (i) the charges are dismissed or the officer is acquitted, at which time the officer shall be entitled to return to office, unless the officer's term of office has in the meantime expired; or
 - (ii) the officer is convicted of a felony or attempt to commit a felony arising from conduct related to the officer's official duties, in which case the sentencing judge shall order the officer removed from office.
- (b) A conviction or a plea of guilty or nolo contendere, relating to a felony charge described in Subsection (2)(a), constitutes malfeasance in office for purposes of Section 77-6-1.
 - (c) Entry of a plea in abeyance is the equivalent of a conviction for purposes of Subsection (2)(a)(ii), even if the charge is later dismissed pursuant to a plea in abeyance agreement.
 - (d) The provisions under this Subsection (2) for the removal of a county or prosecution district officer are in addition to and do not replace or supersede the removal provisions under Title 77, Chapter 6, Removal by Judicial Proceedings.
- (3)
- (a) During the time that an elected county or prosecution district officer is on paid administrative leave under Subsection (2), the officer's duties may, except as provided in Subsection (3)(c), be temporarily:
 - (i) reassigned to another officer by the county legislative body; or
 - (ii) performed by a person employed for that purpose.
 - (b) For purposes of Subsection (3)(a) with respect to a prosecution district officer in a multi-county prosecution district, "county legislative body" means the legislative bodies of all counties included in the prosecution district.
 - (c) A reassignment under Subsection (3)(a) may not result in the same person exercising the duties of:
 - (i) both a county legislative body member or county treasurer and county auditor; or
 - (ii) both a county executive and county auditor.

Amended by Chapter 321, 2006 General Session

17-16-11 Fidelity bonds and theft or crime insurance.

- (1) As used in this section, "county officials" means:
- (a) the members of the county legislative body;
 - (b) the county executive;
 - (c) the county clerk;
 - (d) the county auditor;
 - (e) the county sheriff;
 - (f) the county attorney;
 - (g) in a county that is within a prosecution district, the district attorney;
 - (h) the county recorder;
 - (i) the county assessor;
 - (j) the county surveyor;
 - (k) each justice court judge and constable within the county;
 - (l) the county treasurer; and
 - (m) each deputy or assistant of those listed in Subsections (1)(a) through (l) for whom the county legislative body determines a general fidelity bond or theft or crime insurance should be acquired.
- (2)
- (a) The legislative body of each county shall prescribe the amount of each general fidelity bond or of theft or crime insurance to be acquired for county officials, except the county treasurer,

before the county officials, except the county treasurer, may discharge the duties of their respective offices.

- (b) The State Money Management Council created in Section 51-7-16 shall prescribe the amount of a general fidelity bond or theft or crime insurance to be acquired for the county treasurer before the county treasurer may discharge the duties of that office.
 - (c) A county legislative body may acquire a fidelity bond or theft or crime insurance on all county officials as a group rather than individually.
- (3)
- (a) The county legislative body shall approve the premium for each fidelity bond before the bond may be filed.
 - (b) The cost of each fidelity bond and theft or crime insurance policy shall be paid from county funds.
- (4) Each fidelity bond shall be filed and maintained in the office of the county clerk.
- (5)
- (a) The district attorney of each multicounty prosecution district shall:
 - (i) execute a fidelity bond or acquire theft or crime insurance in the amount specified in the interlocal agreement that created the prosecution district; and
 - (ii) file each fidelity bond with the county clerk as specified in the interlocal agreement.
 - (b) The cost of each fidelity bond or theft or crime insurance policy under Subsection (5)(a) shall be paid as specified in the interlocal agreement that created the prosecution district.

Amended by Chapter 268, 2007 General Session

17-16-12 Business to be finished before expiration of term.

It shall be the duty of all officers in this title named to complete the business of their respective offices to the time of the expiration of their respective terms, and in case an officer at the close of his term shall leave to his successor official labor to be performed for which he has received compensation or which it was his duty to perform, he shall be liable to pay his successor the full value of such service.

No Change Since 1953

17-16-14 Salaries of county officers.

The annual salaries of the officers of all counties in the state shall be fixed by the respective county legislative bodies, provided no changes shall be made in existing salaries of county officers until the county legislative body in a county desiring to change existing salaries of county officers shall first hold a public hearing at which all interested persons shall be given an opportunity to be heard.

Amended by Chapter 227, 1993 General Session

17-16-16 Commissioners' traveling expenses.

- (1) The members of the board of county commissioners may not receive any compensation in addition to that provided in Section 17-16-14 for any special or committee work, but, subject to Subsection (2), each member shall be paid the amount of the member's actual and reasonable traveling expenses in attending the regular and special sessions of the board and in the discharge of necessary duties.

- (2) Before receiving payment for the actual and reasonable traveling expenses described in Subsection (1), the member shall:
- (a) submit an itemized statement showing in detail the expenses incurred; and
 - (b) subscribe and swear to the statement described in Subsection (2)(a).

Amended by Chapter 297, 2011 General Session

17-16-17 Change of class -- Effect on salaries -- Salaries for new counties.

If the taxable value of any existing county has been reduced below or raised above the class and rank first assumed, the county legislative body of the county shall designate the class to which the county has been reduced or raised, and the county is in that class, and the salaries of county officers shall be adjusted on or before January 1 next succeeding by the county legislative body, but in no event may the salaries be reduced for the term for which the officers were elected and are qualified. The county legislative body in a newly created county shall at its first meeting after the organization of the county, for the purpose of fixing salaries and compensation of county officers, determine to which class the county belongs, and fix the salaries for the first term of the officers accordingly.

Amended by Chapter 227, 1993 General Session

17-16-18 Salaries paid out of general fund.

The salaries of county officers shall be paid monthly, semi-monthly, or bi-weekly, as determined by the county legislative body, out of the county general fund or the county salary fund upon the order of the county legislative body.

Amended by Chapter 176, 2014 General Session

17-16-19 Salaries to be full compensation -- Compensation for deputies.

The salaries herein provided for shall be full compensation for all services of every kind and description rendered by the officers named herein; and where deputies or assistants have been allowed to any such officers the salary of any deputy or assistant shall be fixed by the county legislative body, and shall be a county charge.

Amended by Chapter 227, 1993 General Session

17-16-20 Salaries in case of combined offices.

Whenever the county legislative body shall combine the duties of any county officers the salary of the person discharging the duties of such offices shall be fixed at a sum not exceeding the highest salary paid to either of the officers whose offices are so combined, in addition to an amount not exceeding one-half of the salary fixed for the other officer, when only two offices are combined, or when more than two offices are combined, in addition to such highest salary, one-third of the combined salaries of such other officers.

Amended by Chapter 227, 1993 General Session

17-16-21 Fees of county officers.

- (1) As used in this section, "county officer" means all of the county officers enumerated in Section 17-53-101 except county recorders, county constables, and county sheriffs.

- (2)
- (a) Each county officer shall collect, in advance, for exclusive county use and benefit:
 - (i) all fees established by the county legislative body under Section 17-53-211; and
 - (ii) any other fees authorized or required by law.
 - (b) As long as the Children's Legal Defense Account is authorized by Section 51-9-408, the county clerk shall:
 - (i) assess \$10 in addition to whatever fee for a marriage license is established under authority of this section; and
 - (ii) transmit \$10 from each marriage license fee to the Division of Finance for deposit in the Children's Legal Defense Account.
 - (c)
 - (i) As long as the Division of Child and Family Services, created in Section 62A-4a-103, has the responsibility under Section 62A-4a-105 to provide services, including temporary shelter, for victims of domestic violence, the county clerk shall:
 - (A) collect \$10 in addition to whatever fee for a marriage license is established under authority of this section, in addition to the amount described in Subsection (2)(b), if an applicant chooses, as provided in Subsection (2)(c)(ii), to pay the additional \$10; and
 - (B) to the extent actually paid, transmit \$10 from each marriage license fee to the Division of Finance for distribution to the Division of Child and Family Services for the operation of shelters for victims of domestic violence.
 - (ii)
 - (A) The county clerk shall provide a method for an applicant for a marriage license to choose to pay the additional \$10 referred to in Subsection (2)(c)(i).
 - (B) An applicant for a marriage license may choose not to pay the additional \$10 referred to in Subsection (2)(c)(i) without affecting the applicant's ability to be issued a marriage license.
- (3) This section does not apply to any fees currently being assessed by the state but collected by county officers.

Amended by Chapter 278, 2013 General Session

Part 2

Personal Use Expenditure

17-16-201 Title.

This part is known as "Personal Use Expenditure."

Enacted by Chapter 50, 2016 General Session

17-16-202 Definitions.

As used in this part:

- (1)
- (a) Except as provided in Subsection (1)(b), "contribution" means any of the following when done for a political purpose:
 - (i) a gift, subscription, donation, loan, advance, deposit of money, or anything of value given to the filing entity;

- (ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, deposit of money, or anything of value to the filing entity;
 - (iii) any transfer of funds from another reporting entity to the filing entity;
 - (iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;
 - (v) a loan made by a county office candidate or local school board candidate deposited into the county office candidate's or local school board candidate's own campaign account; or
 - (vi) an in-kind contribution.
- (b) "Contribution" does not include:
- (i) services provided by an individual volunteering a portion or all of the individual's time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;
 - (ii) money lent to the filing entity by a financial institution in the ordinary course of business; or
 - (iii) goods or services provided for the benefit of a county office candidate or local school board candidate at less than fair market value that are not authorized by or coordinated with the county office candidate or the local school board candidate.
- (2) "County office" means an office described in Section 17-53-101 that is required to be filled by an election.
- (3) "County office candidate" means an individual who:
- (a) files a declaration of candidacy for a county office; or
 - (b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a county office.
- (4) "County officer" means an individual who holds a county office.
- (5)
- (a) Except as provided in Subsection (5)(b), "expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:
 - (i) any disbursement from contributions, receipts, or the separate bank account required under Section 17-16-6.5;
 - (ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for a political purpose;
 - (iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;
 - (iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;
 - (v) a transfer of funds between the filing entity and a county office candidate's, or a local school board candidate's, personal campaign committee; or
 - (vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for a political purpose at less than fair market value.
 - (b) "Expenditure" does not include:
 - (i) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a reporting entity;
 - (ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or
 - (iii) anything described in Subsection (5)(a) that is given by a reporting entity to a candidate or officer in another state.

- (6) "Filing entity" means:
 - (a) a county office candidate;
 - (b) a county officer;
 - (c) a local school board candidate;
 - (d) a local school board member; or
 - (e) a reporting entity that is required to meet a campaign finance disclosure requirement adopted by a county in accordance with Section 17-16-6.5.
- (7) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.
- (8) "Local school board candidate" means an individual who:
 - (a) files a declaration of candidacy for local school board; or
 - (b) receives a contribution, makes an expenditure, or gives consent for any other person to receive a contribution or make an expenditure to bring about the individual's nomination or election to a local school board.
- (9)
 - (a) "Personal use expenditure" means an expenditure that:
 - (i)
 - (A) is not excluded from the definition of personal use expenditure by Subsection (9)(c); and
 - (B) primarily furthers a personal interest of a county office candidate, county officer, local school board candidate, or a local school board member, or a member of a county office candidate's, county officer's, local school board candidate's, or local school board member's family; or
 - (ii) would cause the county office candidate, county officer, local school board candidate, or local school board member to recognize the expenditure as taxable income under federal law.
 - (b) "Personal use expenditure" includes:
 - (i) a mortgage, rent, utility, or vehicle payment;
 - (ii) a household food item or supply;
 - (iii) clothing, except for clothing:
 - (A) bearing the county office candidate's or local school board candidate's name or campaign slogan or logo; and
 - (B) used in the county office candidate's or local school board member's campaign;
 - (iv) admission to a sporting, artistic, or recreational event or other form of entertainment;
 - (v) dues, fees, or gratuities at a country club, health club, or recreational facility;
 - (vi) a salary payment made to:
 - (A) a county office candidate, county officer, local school board candidate, or local school board member; or
 - (B) a person who has not provided a bona fide service to a county candidate, county officer, local school board candidate, or local school board member;
 - (vii) a vacation;
 - (viii) a vehicle expense;
 - (ix) a meal expense;
 - (x) a travel expense;
 - (xi) payment of an administrative, civil, or criminal penalty;
 - (xii) satisfaction of a personal debt;
 - (xiii) a personal service, including the service of an attorney, accountant, physician, or other professional person;
 - (xiv) a membership fee for a professional or service organization; and

- (xv) a payment in excess of the fair market value of the item or service purchased.
- (c) "Personal use expenditure" does not include an expenditure made:
 - (i) for a political purpose;
 - (ii) for candidacy for county office or local school board;
 - (iii) to fulfill a duty or activity of a county officer or local school board member;
 - (iv) for a donation to a registered political party;
 - (v) for a contribution to another candidate's campaign account, including sponsorship of or attendance at an event, the primary purpose of which is to solicit a contribution for another candidate's campaign account;
 - (vi) to return all or a portion of a contribution to a contributor;
 - (vii) for the following items, if made in connection with the candidacy for county office or local school board, or an activity or duty of a county officer or local school board member:
 - (A) a mileage allowance at the rate established by the political subdivision that provides the mileage allowance;
 - (B) for motor fuel or special fuel, as defined in Section 59-13-102;
 - (C) a meal expense;
 - (D) a travel expense, including an expense incurred for airfare or a rental vehicle;
 - (E) a payment for a service provided by an attorney or accountant;
 - (F) a tuition payment or registration fee for participation in a meeting or conference;
 - (G) a gift;
 - (H) a payment for rent, utilities, a supply, or furnishings, in connection with an office space;
 - (I) a booth at a meeting or event; or
 - (J) educational material;
 - (viii) to purchase or mail informational material, a survey, or a greeting card;
 - (ix) for a donation to a charitable organization, as defined in Section 13-22-2, including admission to or sponsorship of an event, the primary purpose of which is charitable solicitation, as defined in Section 13-22-2;
 - (x) to repay a loan a county office candidate or local school board candidate makes from the candidate's personal account to the candidate's campaign account;
 - (xi) to pay membership dues to a national organization whose primary purpose is to address general public policy;
 - (xii) for admission to or sponsorship of an event, the primary purpose of which is to promote the social, educational, or economic well-being of the state or the county candidate's, county officer's, local school board candidate's, or local school board member's community;
 - (xiii) for one or more guests of a county office candidate, county officer, local school board candidate, or local school board member to attend an event, meeting, or conference described in this Subsection (9)(c); or
 - (xiv) that is connected with the performance of an activity as a county office candidate or local school board member, or an activity or duty of a county officer or local school board member.
- (10) "Political purpose" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking an office at any caucus, political convention, or election.
- (11) "Reporting entity":
 - (a) means the same as that term is defined in Subsection 20A-11-101(52); and
 - (b) includes a county office candidate, a county office candidate's personal campaign committee, a county officer, a local school board candidate, a local school board candidate's personal campaign committee, and a local school board member.

Enacted by Chapter 50, 2016 General Session

17-16-203 Personal use expenditure -- Authorized and prohibited uses of campaign funds -- Enforcement -- Penalties.

- (1) A county office candidate, county officer, local school board candidate, or local school board member may not use money deposited into the separate bank account required under Section 17-16-6.5 for:
 - (a) a personal use expenditure; or
 - (b) an expenditure prohibited by law.
- (2)
 - (a) A county clerk shall enforce this section prohibiting a personal use expenditure by:
 - (i) evaluating a financial statement to identify a personal use expenditure; and
 - (ii) commencing an adjudicative proceeding in accordance with applicable county ordinance or policy if the county clerk has probable cause to believe a county office candidate, county officer, local school board candidate, or local school board member has made a personal use expenditure.
 - (b) Following the proceeding, the county clerk may issue a signed order requiring a county office candidate, county officer, local school board candidate, or local school board member who has made a personal use expenditure to:
 - (i) remit an administrative penalty of an amount equal to 50% of the personal use expenditure to the county clerk; and
 - (ii) deposit the amount of the personal use expenditure in the campaign account from which the personal use expenditure was disbursed.
 - (c) The county clerk shall deposit money received under Subsection (2)(b)(i) into the county's general fund.

Enacted by Chapter 50, 2016 General Session