

CITIZENS FOR RESPONSIBILITY AND ETHICS IN WASHINGTON
PRESENTS

THE WORST GOVERNORS

IN AMERICA

GEORGIA, MAINE, VIRGINIA, TEXAS, FLORIDA
WISCONSIN, KENTUCKY, ARIZONA, PENNSYLVANIA, CAROLINAS
CRONYISM, MISMANAGEMENT
NEPOTISM, SELF-ENRICHMENT 

CREW

citizens for responsibility
and ethics in washington



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EXECUTIVE SUMMARY

CREW's second report on the nation's worst governors includes 18 — six of whom are the worst of the lot, six others whose conduct raises serious questions about their leadership, and six others who engaged in some action suspect enough to suggest their decisions merit close scrutiny. Some governors on the list essentially turned their authority and regulatory agendas over to special interests. Others abused their office in return for gifts and campaign contributions. Many appointed donors to key positions and gutted transparency measures. All failed to live up to the public trust.

Until publishing its first report on the nation's worst governors in 2010, CREW primarily focused on the ethics of federal government officials. CREW chose to look at governors because their actions have a major impact on public welfare, but state ethics issues often escape attention. Now, with Washington mired in partisan gridlock, much of the legislative action takes place at the state level. As a result, it is critical that governors' conduct be beyond reproach.

CREW assessed the governors based on the following criteria:

- **Corruption:** Has there been outright corruption? Did a governor violate state ethics laws or campaign finance laws, or did the governor use his or her position to influence the awarding of state contracts?
- **Transparency:** Did a governor block access to records that state law deems discoverable? Similarly, did the governor oppose legislation to make public records more accessible or promote measures to make government less transparent? Finally, did the governor take steps to foil transparency, such as, for instance, using private e-mail accounts for public business?
- **Partisan politics:** Did a governor appear to put partisan politics above the interests of the citizens of his or her state?
- **Pressuring public officials:** Has a governor attempted to pressure or intimidate other state officials in an inappropriate manner?
- **Cronyism:** Did a governor abuse his or her position to reward family, friends, or major donors with state employment or other benefits?
- **Self-enrichment:** Did a governor use his or her position for personal financial enrichment?
- **Scandal:** Was a governor involved in a personal scandal that clearly distracted from his or her ability to govern effectively?
- **Mismanagement:** Did a governor fail to discharge his or her duties responsibly and in the public interest?

CREW attempted to confine research to the governors' actions while in office or running for office. In a few cases, however, investigations into a governor's actions before taking office raised substantial questions or have had an impact on the governors' ability to govern, forcing exceptions.

While conducting the research for this report, we noticed some disturbing trends. For example, governors around the country have pushed to create economic development agencies or funds that rely on public money but are exempt from public audit or transparency requirements. These situations make it harder for the public to ensure accountability, and create conditions ideal for

corruption and abuse. This practice has already led to problems in, for instance, Arizona, Texas, and Wisconsin.

In addition, poorly crafted state ethics laws and a lack of vigorous enforcement allow governors to abuse their offices with few or no consequences. Ethics laws, open records laws, transparency rules, disclosure requirements, and campaign finance laws vary greatly from state to state. Significant loopholes frequently provide governors with cover for questionable conduct. Gov. Robert McDonnell (R-VA), for example, is under state and federal investigation over whether he improperly helped the chief executive of a Virginia dietary supplement company in exchange for thousands of dollars' worth of gifts to the governor and his family. Virginia law requires the governor to disclose only those gifts made to him, not those made to his family members, which means the public had no way to know the businessman was plying the McDonnells with money, shopping sprees, and expensive luxury items.

Many of the governors included here promised to uphold the highest ethical standards while in office, and to promote open and accountable government, yet have failed to live up to that commitment.

METHODOLOGY

To create this report, CREW initially conducted research into all sitting state governors. CREW's researchers searched the Internet and the Nexis database for any credible allegations of misconduct against each governor. Researchers reviewed a wide variety of sources including news reports, personal financial disclosures, lobbying records, campaign finance reports, records maintained by state ethics bodies, state government websites, and state-based government watchdog groups. CREW consulted information compiled by the Center for Public Integrity, among other sources, for information about state ethics and transparency laws in each state. CREW also relied on campaign finance data compiled by the National Institute on Money in State Politics at www.followthemoney.org.

RINGMASTERS

NATHAN DEAL

Gov. Nathan Deal (R-GA) was elected in 2010. He is running for re-election in 2014. His inclusion stems from: (1) using his gubernatorial campaign to benefit his daughter-in-law; (2) using his office to benefit a business partner; (3) using his office to benefit a top donor; (4) arranging a taxpayer-funded job for a political foe; and (5) obstructing ethics investigations into his business dealings.

Gov. Deal was previously included in CREW's 2009 Most Corrupt report.¹ The report cited the way then-Rep. Deal and his top aide, Chris Riley, blurred the line between Rep. Deal's private business interests and his official duties, using public resources to attempt to influence other public officials to benefit his private affairs. The pattern continued during his successful 2010 campaign for governor and his term in office.

CRONYISM

Southern Magnolia Capital

On May 4, 2009, Nathan Deal registered with the Georgia State Ethics Commission² to formally run for governor, establishing Nathan Deal for Governor, Inc.³ Shortly thereafter, Nathan Deal for Governor hired Denise Deal, the candidate's daughter-in-law, as "campaign staff," paying her a monthly salary and reimbursing her for "cleaning service."⁴ In all, during the 2010 campaign Nathan Deal for Governor paid Ms. Deal \$40,725.03.⁵ None of Gov. Deal's previous campaigns for Congress reported paying Ms. Deal, and she appears to have no previous campaign experience.⁶

On January 27, 2010, Southern Magnolia Capital, LLC was organized in Georgia, giving a post office box as its mailing address and making no mention of Ms. Deal.⁷ On August 9, 2010, Nathan Deal for Governor paid Southern Magnolia Capital \$50,000 for "Consultant-Fundraising" on the eve of the Republican primary runoff election.⁸ Another \$40,000 payment

¹ For more information, see CREW's Most Corrupt 2009, available at <http://www.crewsmostcorrupt.org/mostcorrupt/entry/most-corrupt-2009>.

² The State Ethics Commission is now known as the Georgia Government Transparency and Campaign Finance Commission.

³ http://media.ethics.ga.gov/search/Campaign/Campaign_Name.aspx?NameID=5753&FilerID=C2009000086&Type=candidate.

⁴ I-Team: Deal Campaign Funds, *Fox 5 Atlanta WAGA*, May 12, 2011, available at http://www.youtube.com/watch?v=d6BvSLB_L3U; Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2010.

⁵ Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2010.

⁶ CQ Moneyline, Recipient Lookup, Denise Deal from Nathan Deal, 2002–2010; *Fox 5 Atlanta WAGA*, May 12, 2011; I-Team: Deal Campaign Funds, Part II, *Fox 5 Atlanta WAGA*, June 9, 2011; <http://southernmagnoliacapital.com/about.php>.

⁷ Southern Magnolia Capital, LLC, Articles of Organization, Secretary of State: Atlanta, Georgia, filed January 27, 2010; Larry Peterson, Deal's Office Slams TV Report About Daughter-In-Law, *Savannah Morning News*, May 14, 2011.

⁸ <http://www.ourcampaigns.com/RaceDetail.html?RaceID=409687>; Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Report, September 30, 2010 Election Year Report (Amended), July 12, 2012.

followed on November 8, shortly after Gov. Deal's general election victory.⁹ Only one other campaign utilized Southern Magnolia Capital during the 2010 campaign. State Senator Butch Miller, a Hall County resident like Gov. Deal, paid the company a total of \$10,019.46 in April and May of 2010.¹⁰

On May 12, 2011, *Fox 5 Atlanta News* reported on Nathan Deal for Governor's payments to Southern Magnolia Capital and Denise Deal.¹¹ At the time of the report, the company had no website, and records available to the public made no mention of Ms. Deal's involvement.¹² In explaining the payments to Southern Magnolia Capital and Ms. Deal, Gov. Deal's campaign chairman Philip Wilheit said, "Nepotism is not a bad thing. It is a practice that when used judiciously is very effective. And that's what I feel like we've done here."¹³ Mr. Wilheit claimed it was his idea to hire Ms. Deal, but Gov. Deal approved it.¹⁴ A spokesman for Gov. Deal claimed, "she was a large part of why we won."¹⁵

Mr. Wilheit also claimed Ms. Deal was on a contract similar to that of fellow fundraising firm Capitol Strategy Group, Inc., which was paid \$177,811.70 by the campaign.¹⁶ According to Deal staffers, both Ms. Deal and Capitol Strategy Group collected a 10 percent commission on all money raised for the campaign.¹⁷ The payments to the two companies, however, look very different. Most payments to Ms. Deal are labeled as salary or campaign payroll payments, and the amounts are relatively consistent. In contrast, the payments to Capital Strategy Group, labeled as fundraising consulting payments, vary by large amounts.¹⁸ During this period, Southern Magnolia Capital was paid in round, lump sums.¹⁹

Southern Magnolia Capital has expanded its business and become more up-front about Ms. Deal's involvement. As early as May 19, 2011, www.southernmagnolia.com added a title page,

⁹ Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Report, December 31, 2010 Election Year Report, January 6, 2011; http://sos.georgia.gov/elections/election_results/2010_1102/00200.htm.

¹⁰ *Fox 5 Atlanta WAGA*, May 12, 2011; Committee to Elect Butch Miller, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2010; Jeanne Bonner, Deal Objects to Hall County Districts, *Georgia Public Broadcasting (GPB)*, August 23, 2011.

¹¹ *Fox 5 Atlanta WAGA*, May 12, 2011.

¹² *Id.*

¹³ *Fox 5 Atlanta WAGA*, June 9, 2011.

¹⁴ *Fox 5 Atlanta WAGA*, May 12, 2011.

¹⁵ Peterson, *Savannah Morning News*, May 14, 2011.

¹⁶ *Fox 5 Atlanta WAGA*, June 9, 2011; Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2010.

¹⁷ *Fox 5 Atlanta WAGA*, June 9, 2011.

¹⁸ *Id.*; All 2010 election payments to Capitol Strategy Group, save a \$50,000 payment on November 8 that is likely a post-election bonus, end in decimal places and vary widely, ranging from a high of \$39,280.55 to a low of \$230.23. They add up to \$127,811.70, or 10 percent of \$1,278,117. See Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2010.

¹⁹ *Fox 5 Atlanta WAGA*, June 9, 2011; Denise Deal appears to have been paid a monthly salary of \$1,666.79 from June to December 2009 and a monthly salary of \$1,657.79 from January to July 2010. See Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2010.

and by June, had created a placeholder website.²⁰ By August 2011, Southern Magnolia Capital's website prominently listed Ms. Deal as one of the company's two founders.²¹

Ms. Deal worked for Nathan Deal for Governor for the first six months of 2011, receiving a \$1,500 monthly salary and \$940.45 in reimbursements.²² The campaign also paid Southern Magnolia Capital \$241,358.72 from January 2011 until March 2013,²³ including a \$2,000 monthly payment beginning in August 2011 for "Consulting-Office Management."²⁴

While Nathan Deal for Governor remains Southern Magnolia Capital's main benefactor, the firm has expanded its client base. Since Gov. Deal's election, 26 additional clients, including members of the state legislature, the Georgia House Republican Trust, a judge, a court clerk, and a public service commissioner, have hired the firm.²⁵ In total, Southern Magnolia Capital has received \$286,497.24 from non-Deal campaigns since January 2011.²⁶

In March 2013, Nathan Deal for Governor stopped paying Southern Magnolia Capital and began making a monthly \$2,000 payment for "Consulting-Office Management" to The Sassafras Group.²⁷ State records list Ms. Deal as the registered agent for The Sassafras Group.²⁸

Landfill

Beginning in 2005, Gov. Deal, as a member of Congress, used his position to obtain approval for construction of a landfill owned by his longtime business partner Kenneth Cronan.²⁹ While in Congress, Gov. Deal and his staff arranged for meetings with local and state officials to push the project, and correspondence related to the project was passed through his congressional chief of staff.³⁰ Gov. Deal has denied an ongoing financial interest in the landfill.³¹ All of his efforts on

²⁰ <http://web.archive.org/web/20110519075827/http://southernmagnoliacapital.com/>;
<http://web.archive.org/web/20110621064250/http://southernmagnoliacapital.com/>.

²¹ <http://web.archive.org/web/20110831060802/http://southernmagnoliacapital.com/>.

²² Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Report, June 30, 2011 Non-Election Year Report, July 8, 2011.

²³ Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2011–2013.

²⁴ *Id.*

²⁵ Georgia Government Transparency and Campaign Finance Commission, Expenditure Search, Southern Magnolia Capital, 2010–present.

²⁶ *Id.*

²⁷ Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Report, June 30, 2013, Non-Election Year Report, June 30, 2013. The name of the company is misspelled as "The Sassafrass Group" in Nathan Deal for Governor's campaign finance reports. The company is registered as The Sassafras Group with the state. See The Sassafras Group, LLC, 2013 Corporation Annual Registration, Secretary of State: Columbus, Georgia, filed May 15, 2013.

²⁸ The Sassafras Group, LLC, 2013 Corporation Annual Registration, Secretary of State: Columbus, Georgia, filed May 15, 2013.

²⁹ Shannon McCaffrey, AP Investigation: Candidate Nathan Deal Lobbied State on Landfill, *Associated Press*, October 13, 2010; Chris Joyner, Neighbors Fight Landfill Proposed By Deal Supporter, *Atlanta Journal-Constitution*, November 8, 2012.

³⁰ McCaffrey, *Associated Press*, Oct. 13, 2010.

³¹ *Id.*; In July 2007, Gov. Deal and Mr. Cronan incorporated GWAR, LLC to operate the landfill. In August 2007, Gov. Deal and Mr. Cronan jointly applied for a solid waste handling permit from the Georgia Environmental Protection Division. In September 2008, Mr. Cronan removed Gov. Deal's name from the company's documents

behalf of the project, now owned by his business partner, indicate Gov. Deal has been less than forthcoming about his role in the landfill.³²

In late 2011, Mr. Cronan began to apply for state permits to expand the landfill, add new operations, and include the recycling of new restaurant waste.³³ In 2012, Mr. Cronan applied to the U.S. Army Corps of Engineers for permission to expand as well.³⁴ Army approval is needed because a nearby creek is already on the list of the state's polluted waters.³⁵ According to a local environmental group, the state issued new permits to Mr. Cronan in "record time."³⁶ Following complaints from local residents regarding a foul stench coming from the site, a 2012 investigation by Hall County officials revealed the landfill violated local zoning ordinances and its original permits by accepting food waste and excavating part of an old landfill on the property.³⁷ The county, however, announced no sanctions for the company, allowing the landfill to continue operation.³⁸ The foul stench of rotting food remained.³⁹ Some of the food waste in the landfill comes from the Georgia World Congress Center Authority, a state authority.⁴⁰

Philip Wilheit

Mr. Wilheit was the campaign chairman of Gov. Deal's gubernatorial campaign, and has been one of his top donors.⁴¹ Mr. Wilheit partnered with Gov. Deal, Mr. Riley, Mr. Cronan, and others to co-own a private plane Gov. Deal used during his congressional and gubernatorial campaigns.⁴² Mr. Wilheit, his businesses, and family members gave then-Rep. Deal's congressional campaigns \$29,200 between 1992 and 2008, and have given his gubernatorial campaign \$56,650.⁴³ As one of his first official acts as governor, Gov. Deal appointed Mr. Wilheit to the State Board of Regents.⁴⁴ Mr. Wilheit is a partner in a 518-acre industrial park in

with the Secretary of State, claiming a "scrivener's error" had led to him erroneously being listed as an organizer of the company. See GWAR, LLC, Articles of Organization, Secretary of State: Atlanta, Georgia, filed July 2, 2007; GWAR, LLC, Articles of Correction to Articles of Organization, Secretary of State: Atlanta, Georgia, filed September 23, 2008; GWAR, LLC, Application for Solid Waste Handling Permit and Request for Site Suitability, Solid Waste Permitting Program: Atlanta, Georgia, filed January 8, 2008, available at <http://www.scribd.com/doc/152435207/Signed-Permit>.

³² McCaffrey, *Associated Press*, Oct. 13, 2010.

³³ Joyner, *Atlanta Journal-Constitution*, Nov. 8, 2012.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Chris Joyner, Landfill Owned By Deal's Friend Violates County Zoning, *Atlanta Journal-Constitution*, Monday, November 19, 2012.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*; <http://www.gwcc.com/about/Default.aspx>.

⁴¹ Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2012; *Fox 5 Atlanta WAGA*, June 9, 2011.

⁴² HRPW Investments, LLC, Articles of Organization, Secretary of State: Atlanta, Georgia, filed July 22, 2004; Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2011–2012; Aaron Gould Sheinin, Deal's Complex Flight Plan; Campaign Pays \$135,000 to Lease Aircraft, and He Co-Owns the Company, *Atlanta Journal-Constitution*, September 25, 2010.

⁴³ CQ Moneyline, Donor Lookup, Wilheit, 1980–present; Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2012; <http://www.nghs.com/the-medical-center-foundation-dedicates-wilheit-keys-peace-garden>.

⁴⁴ Greg Bluestein, Land Tax Break Draws Scrutiny, *Atlanta Journal-Constitution*, April 29, 2013.

Hall County where the state paid \$690,000 to buy 10 acres of land for a \$13.6 million state poultry laboratory.⁴⁵ Gov. Deal is the chairman of the State Properties Commission, which voted to buy the land, though Gov. Deal did not vote.⁴⁶

Chip Rogers

In November 2012, Gov. Deal arranged for Georgia Public Broadcasting (GPB) to hire state Sen. Chip Rogers (R-Cherokee County) as “executive producer, community jobs program,” a role later changed to “executive director of the Georgia Works initiative at Georgia Public Broadcasting.”⁴⁷ Gov. Deal personally offered Sen. Rogers the new position working under the state agency’s director, Teya Ryan, and arranged a meeting between the two.⁴⁸ Sen. Rogers thanked Gov. Deal and Ms. Ryan for “bringing this opportunity to me.”⁴⁹ GPB Vice President Nancy Zintak also credited the governor’s office for contributing to the hiring of Sen. Rogers.⁵⁰ Despite this, the governor’s office maintains Gov. Deal did not hire Sen. Rogers.⁵¹

In the post, Sen. Rogers will create and host a statewide radio program focused on economic development.⁵² Sen. Rogers was appointed to the job before there was even a description for what it entailed, but it comes with a salary of \$150,000 — making him GPB’s second-highest paid employee — even as the organization has seen multiple rounds of layoffs.⁵³ Sen. Rogers’ salary is paid solely by state taxpayers, and is higher than Gov. Deal’s.⁵⁴ Local political observers agree Sen. Rogers, a former Senate majority leader, was given the job to get him out of the Senate, where he had sponsored an embarrassing seminar on “Agenda 21,” an alleged U.N. conspiracy against property rights.⁵⁵ The governor and his allies also thought Sen. Rogers might rally disaffected Senate Republicans against Gov. Deal’s agenda.⁵⁶ Sen. Rogers had also spurred dysfunction in the Senate, working to strip Lt. Gov. Casey Cagle of his power in the chamber and breaking with the governor on a Transportation Special Purpose Local Option Sales Tax measure.⁵⁷ The appointment resulted in a resignation in protest by a veteran GPB producer and

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ <http://www.gpb.org/author/chip-rogers>; Rogers Salary Questioned, *Associated Press*, January 24, 2013; Walter C. Jones, Former Ga. Senate Majority Leader Quits, *Athens Banner-Herald*, December 5, 2012; Kristina Torres, Chip Rogers Will Make \$150,000 at GPB, *Atlanta Journal-Constitution*, January 18, 2013.

⁴⁸ Jones, *Athens Banner-Herald*, Dec. 5, 2012; Aaron Gould Sheinin and Kristina Torres, Chip Rogers Leaving State Senate, *Atlanta Journal-Constitution*, December 4, 2012; Jeff Chirico, Gov. Deal Called Meeting To Discuss Former Senator’s New GPB Job, *CBS Atlanta WGCL-46*, January 4, 2013.

⁴⁹ Sheinin and Torres, *Atlanta Journal-Constitution*, Dec. 4, 2012.

⁵⁰ *Id.*

⁵¹ Lori Geary, GPB Veteran Resigns After Chip Rogers Hired, *ABC 2 Atlanta WSB*, January 23, 2013.

⁵² Kristina Torres, Flap Over Chip Rogers’ \$150,000 Salary at GPB, *Atlanta Journal-Constitution*, January 23, 2013.

⁵³ *Id.*; Jim Galloway, Why Chip Rogers’ New GPB Job Fails The Cronyism Test, *Atlanta Journal-Constitution*, January 30, 2013.

⁵⁴ Max Blau, Petition Calls For Georgia Public Broadcasting To Fire Chip Rogers, *Creative Loafing*, January 22, 2013; Torres, *Atlanta Journal-Constitution*, Jan. 23, 2013.

⁵⁵ Galloway, *Atlanta Journal-Constitution*, Jan. 30, 2013; Jay Bookman, Let’s Be Honest: Chip Rogers Is Being Paid to Go Away, *Atlanta Journal-Constitution*, December 5, 2012; Chirico, *CBS Atlanta WGCL-46*, Jan. 4, 2013; Blau, *Creative Loafing*, Jan. 22, 2013; Dick Yarbrough, Georgia Public Broadcasting Welcomes Their New Executive Producer, *DickYarbrough.com*, February 7, 2013.

⁵⁶ Galloway, *Atlanta Journal-Constitution*, Jan. 30, 2013.

⁵⁷ Hatcher Hurd, Fall Quick and Steep for Chip Rogers, *NorthFulton.com*, December 13, 2012.

GPB members cutting off their donations to the organization.⁵⁸ In May 2013, GPB hired a new experienced producer to aid Sen. Rogers in producing his new series.⁵⁹ The program is expected to debut in July, months after it was originally supposed to air.⁶⁰

PRESSURING PUBLIC OFFICIALS

Interfering with Georgia Ethics Enforcement

During the 2010 gubernatorial election, a series of ethics complaints were filed against then-candidate Deal and his campaign with the State Ethics Commission.⁶¹ These complaints ultimately led to investigations related to his campaign's payments to North Georgia Aviation, Southern Magnolia Capital, Creekside Consulting LLC,⁶² and McKenna, Long, & Aldridge.⁶³ The allegations also included failure to properly disclose credit card payments, failure to properly disclose his assets and liabilities on personal financial disclosure forms, and receiving donations above contribution limits.⁶⁴

The commission's preliminary investigation revealed Gov. Deal's campaign air travel expenses and political contributions exceeded legal limits.⁶⁵ Because Gov. Deal's campaign refused to voluntarily provide documents when asked by the commission in summer 2010, Commission Executive Secretary Stacey Kalberman and Deputy Executive Secretary Sherilyn Streicker prepared subpoenas for Gov. Deal, Mr. Riley, and other associates in connection with these complaints.⁶⁶ The *Atlanta Journal-Constitution* reported that drafts of the subpoenas prepared but never served by the commission examined the \$322,000 the campaign paid to companies Gov. Deal owns or has an interest in, and to businesses controlled by his associates.⁶⁷ The subpoenas would have sought documentation related to Mr. Riley's campaign-related flights, as well as each of the companies.⁶⁸ The subpoenas were reviewed and approved by the staff of the state attorney general, a Republican.⁶⁹

⁵⁸ Geary, *ABC 2 Atlanta WSB*, Jan. 23, 2013; Torres, *Atlanta Journal-Constitution*, Jan. 23, 2013.

⁵⁹ Kristina Torres, Chip Rogers' Show to Debut on GPB in July, *Atlanta Journal-Constitution*, May 29, 2013.

⁶⁰ Torres, *Atlanta Journal-Constitution*, May 29, 2013; Outgoing Ga. Senate Leader Chip Rogers Resigns, *Associated Press*, December 4, 2012.

⁶¹ Jim Walls, Probe Sought Deal Data, *Atlanta Journal-Constitution*, August 28, 2011; Jim Walls, Georgia's Ethics Commission: A Sad Tale Of Dysfunctional State Government, *Center for Public Integrity*, August 29, 2012.

⁶² Creekside Consulting is an LLC run by Mr. Riley's father. Nathan Deal for Governor paid the company \$6,000 on November 10, 2009. According to Georgia campaign finance records, Nathan Deal for Governor appears to be the firm's only campaign-related client. Georgia Government Transparency and Campaign Finance Commission, Expenditure Search, Creekside Consulting, 2010–present; Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2012; Walls, *Atlanta Journal-Constitution*, Aug. 28, 2011.

⁶³ Walls, *Atlanta Journal-Constitution*, Aug. 28, 2011; Nathan Deal for Governor, State of Georgia Campaign Contribution Disclosure Reports (Including Amendments), 2009–2012; Aaron Gould Sheinin, Governor Admits To Ethics Violations, *Atlanta Journal-Constitution*, July 23, 2012.

⁶⁴ Walls, *Atlanta Journal-Constitution*, Aug. 28, 2011.

⁶⁵ *Id.*

⁶⁶ *Id.*; Walls, *Center for Public Integrity*, Aug. 29, 2012.

⁶⁷ Walls, *Atlanta Journal-Constitution*, Aug. 28, 2011.

⁶⁸ *Id.*

⁶⁹ *Id.*; <http://law.ga.gov/biography-attorney-general>; <http://www.politifact.com/personalities/sam-olens/>; <http://www.atlantaunfiltered.com/wp-content/uploads/2011/12/OIG-Streicker-memo-pg-1-3.pdf>; <http://www.atlantaunfiltered.com/wp-content/uploads/2011/08/Stacey-Kalberman-mail.pdf>.

Ms. Kalberman and Ms. Streicker also collaborated with federal investigators as part of their investigation. In a May 19, 2011 e-mail, Ms. Streicker mentioned a planned meeting between Ms. Kalberman and Ms. Streicker with the FBI to take place the next day.⁷⁰ Ms. Kalberman and Ms. Streicker had also met with the IRS as part of the investigation.⁷¹ In one e-mail, Assistant U.S. Attorney Robert McBurney discussed designating Ms. Streicker as a special assistant U.S. attorney to work with his office on their investigation of Gov. Deal.⁷² The U.S. attorney's office also offered the commission the services of a forensic accountant to assist in the ethics investigation.⁷³ The U.S. attorney's office refuses to confirm or deny whether a federal investigation of Gov. Deal ever existed, but Ms. Streicker was never designated a special assistant.⁷⁴

In June 2011, as officials were preparing to serve the subpoenas, State Ethics Commission Chairman Patrick Millsaps informed Ms. Kalberman her pay would be cut about 30 percent and Ms. Streicker would be dismissed due to budget cuts.⁷⁵ Mr. Millsaps had been reappointed to the commission by Gov. Deal in February 2011.⁷⁶ Ms. Kalberman eventually resigned under pressure from Mr. Millsaps, though she continued through the transition to her replacement.⁷⁷ The subpoenas were never served, and the commission instead asked Gov. Deal's lawyer to voluntarily produce the campaign records.⁷⁸ A member of the governor's office called Ms. Kalberman after her resignation, offering to help find her another job after she left the commission.⁷⁹

Mr. Millsaps maintained the investigation was short-circuited for budget reasons, having previously likened the investigation to a potential quagmire.⁸⁰ Ms. Kalberman assured Mr. Millsaps she and her staff had the resources to see the investigation through to its conclusion.⁸¹ Despite maintaining the elimination of Ms. Streicker's position was due to budget cuts, the commission reestablished the position with a different name but nearly identical responsibilities four months later, hiring a less experienced attorney and refusing to allow Ms. Streicker to interview for the job.⁸² Ms. Kalberman believes she was forced out due to her preparation of the

⁷⁰ James Salzer and Shannon McCaffrey, Federal Authorities Met With State Investigators Over Deal Ethics Case, *Atlanta Journal-Constitution*, September 1, 2012.

⁷¹ *Id.*

⁷² *Id.*

⁷³ <http://www.atlantaunfiltered.com/wp-content/uploads/2011/12/OIG-Streicker-memo-pg-1-3.pdf>.

⁷⁴ Salzer and McCaffrey, *Atlanta Journal-Constitution*, Sept. 1, 2012.

⁷⁵ Walls, *Atlanta Journal-Constitution*, Aug. 28, 2011.

⁷⁶ Mr. Millsaps left the board in August 2011 amid concerns that his reappointment to the panel by Gov. Deal may have been technically illegal, as members can only serve one term. Mr. Millsaps had originally been appointed by then-Gov. Perdue in 2009 to fill an unexpired term. An ethics complaint related to his reappointment was dismissed in April 2012. For more information, see Jim Walls, Complaint Against Deal, Ethics Chair Dismissed, *Atlanta Unfiltered*, April 6, 2012; Press Release, Office of the Governor, Governor Nathan Deal, Deal Names Six To Boards, February 28, 2011.

⁷⁷ Walls, *Atlanta Journal-Constitution*, Aug. 28, 2011.

⁷⁸ Jim Walls, Whistleblower: Ex-Ethics Deputy Denied Interview For New Job, *Atlanta Unfiltered*, June 14, 2012.

⁷⁹ <http://www.atlantaunfiltered.com/wp-content/uploads/2011/12/OIG-Kalberman-memo-pg-1-4.pdf>.

⁸⁰ Walls, *Atlanta Journal-Constitution*, Aug. 28, 2011.

⁸¹ *Id.*

⁸² Walls, *Atlanta Unfiltered*, June 14, 2012; <https://www.documentcloud.org/documents/368305-complaint-file-stamped.html>.

subpoenas related to the investigations.⁸³ In a June 2011 e-mail to Mr. Millsaps, Ms. Kalberman wrote, “I do not believe it to be a coincidence that your increased concern with the budget coincides with my staff’s preparation and delivery to you for your signature the subpoenas related to the ongoing Nathan Deal investigation.”⁸⁴ According to Ms. Kalberman and Ms. Streicker, at least two of the Republican members of the commission were deeply uncomfortable with the investigation.⁸⁵

The state inspector general, who was appointed by the governor and relied primarily on testimony from the commissioners, found no evidence Gov. Deal was personally involved in the dismissal.⁸⁶

In June 2012, Ms. Kalberman and Ms. Streicker, claiming they were pushed out to stop the investigation, sued the commission under the Georgia Whistleblower Act, alleging wrongful termination.⁸⁷ The suit is ongoing.

The next month, the commission closed the investigation into Gov. Deal.⁸⁸ It dismissed two complaints and negotiated settlements in three others.⁸⁹ Gov. Deal ultimately paid \$3,350 in fees, and acknowledged receiving donations above contribution limits and minor “technical defects” in disclosure.⁹⁰ The commission dismissed the complaints related to the dismissal of Ms. Kalberman and Ms. Streicker, payments to businesses the governor owned, and his use of gubernatorial campaign funds to defend himself from federal ethics charges.⁹¹

⁸³ <http://www.atlantaunfiltered.com/wp-content/uploads/2011/08/Stacey-Kalberman-mail.pdf>;
<http://www.atlantaunfiltered.com/wp-content/uploads/2011/12/OIG-Kalberman-memo-pg-1-4.pdf>.

⁸⁴ <http://www.atlantaunfiltered.com/wp-content/uploads/2011/08/Stacey-Kalberman-mail.pdf>.

⁸⁵ Walls, *Center for Public Integrity*, Aug. 29, 2012; Walls, *Atlanta Unfiltered*, June 14, 2012.

⁸⁶ Jim Walls, *OIG Probe Leaves Open Questions About Staff Departures At Ethics Panel*, *Atlanta Unfiltered*, December 9, 2012; <http://www.atlantaunfiltered.com/wp-content/uploads/2011/12/OIG-summary-Millsaps-Kalberman.pdf>.

⁸⁷ Aaron Gould Sheinin and Chris Joyner, *Former Director, Assistant File Lawsuits Against Ethics Commission*, *Atlanta Journal-Constitution*, June 13, 2012.

⁸⁸ Jim Walls, *Ethics Panel Drops Deal Complaints, Settles Others for \$3,350*, *Atlanta Unfiltered*, July 23, 2012; Sheinin, *Atlanta Journal-Constitution*, July 23, 2012.

⁸⁹ *Id.*; Walls, *Atlanta Unfiltered*, July 23, 2012.

⁹⁰ *Id.*; Sheinin, *Atlanta Journal-Constitution*, July 23, 2012.

⁹¹ *Id.*; Walls, *Atlanta Unfiltered*, July 23, 2012.

PAUL LEPAGE

Gov. Paul LePage (R-ME) was elected in 2010. He is running for re-election in 2014. His inclusion stems from: (1) the pervasiveness and influence of lobbyists in his administration; (2) personnel problems and retaliation against state employees; (3) improperly bullying state Department of Labor employees; (4) nepotism; (5) reducing government transparency; (6) repeatedly making rude, inappropriate, and offensive comments; and (7) advocating for new voter identification restrictions.

MISMANAGEMENT

Allowing Lobbyists to Set Regulatory Agenda

Gov. LePage has hired or appointed lobbyists advocating for repeal of state environmental regulations and appears to have used his office to support their agenda.

In 2008, the state legislature passed the Kid-Safe Products Act, which set up a process for phasing hazardous chemicals out of children's products.¹ In December 2010, after a lengthy review and before Gov. LePage took office, Maine's Board of Environmental Protection voted to ban some products containing bisphenol-A (BPA), beginning in 2012.² BPA would have been the first chemical regulated under the law.³ The decision was subject to legislative approval.⁴

During his first month in office, Gov. LePage released a regulatory agenda that included changing the Kid-Safe Products Act and opposition to the BPA ban.⁵ Gov. LePage said he did not believe scientific evidence supports restricting BPA, quipping, "So the worst case is some women may have little beards."⁶ His comments provoked public backlash and were widely criticized by advocates and researchers.⁷ Susan Shaw, a toxicologist at the Maine Environmental Research Institute, said, "BPA is one of the most well-studied chemicals, and it is just ludicrous to ignore the science."⁸ The LePage administration said the push came out of a series of workshops with Maine businesspeople on streamlining the regulatory process and was at the request of the Maine Grocers Association and the Maine Beverage Association.⁹ After a reporter questioned the source, a spokesman for the governor acknowledged Ann Robinson, a co-chair of Gov. LePage's gubernatorial transition team, was primarily responsible for drafting the list of proposed regulatory reforms, including the BPA repeal initiative.¹⁰

¹ Steve Mistler, Groups Protest LePage's Regulation Roll-Back Plan, *Sun Journal (Lewiston, ME)*, January 28, 2011.

² Kevin Miller, Augusta Panel Endorses BPA Ban, *Bangor Daily News*, March 26, 2011.

³ Rebekah Metzler, Panel Backs State Ban on Products with BPA, *MaineToday*, March 26, 2011.

⁴ Miller, *Bangor Daily News*, Mar. 26, 2011.

⁵ Kevin Miller, LePage Plan to Roll Back BPA Law Criticized, *Bangor Daily News*, February 5, 2011.

⁶ Kevin Miller, LePage Dismisses BPA Dangers, *Bangor Daily News*, February 22, 2011.

⁷ *Id.*

⁸ *Id.*

⁹ Colin Woodard, LePage's Secret Puppeteers, *The Phoenix*, February 10, 2011; Steve Mistler, LePage Motives on BPA Policy, Mills Firing Questioned, *Sun Journal (Lewiston, ME)*, February 25, 2011.

¹⁰ *Id.*; Woodard, *The Phoenix*, Feb. 10, 2011.

Ms. Robinson is a partner and registered lobbyist at Preti Flaherty.¹¹ Gov. LePage appointed Ms. Robinson to his judicial selection committee, the Maine Public Broadcasting Corp. board of trustees, and to represent Maine as a member of a multistate association that works to promote consistent legislation across state lines.¹² In 2011, Ms. Robinson was named the American Legislative Exchange Council's (ALEC) co-chairwoman for Maine.¹³ ALEC, a conservative lobbying group, creates and distributes model legislation for states.¹⁴ State lobbying records show Ms. Robinson represented clients who opposed environmental regulations, including state efforts to ban BPA, a chemical commonly used in some plastics.¹⁵ Her clients have included the Toy Industry Association of America, the Pharmaceutical Research and Manufacturers of America, and Merck.¹⁶ Gov. LePage appointed a former Preti Flaherty lobbyist, Carlisle McLean, as his general counsel and senior natural resources policy adviser.¹⁷ Finally, he appointed Patricia Aho, a former lobbyist who also represented clients opposed to the BPA ban, to be the commissioner of the Maine Department of Environmental Protection (DEP).¹⁸

Despite Gov. LePage's opposition, the measure passed with wide support from Maine lawmakers.¹⁹ Gov. LePage's spokesperson said the governor continued to personally oppose it, but his administration eventually dropped its formal resistance in what was seen as a defeat for his agenda.²⁰ After the ban passed, the governor allowed it to become law without his signature.²¹ In July 2011, however, a prominent Maine environmental health group accused the LePage administration of failing to comply with deadlines to implement the law.²² The Environmental Health Strategy Center asked Maine Attorney General William Schneider to take enforcement action against Gov. LePage and the DEP, citing Gov. LePage's "pattern of hostility" against the Kid-Safe Products Act.²³ State officials said they were working to implement the law, but needed more time.²⁴ The DEP eventually took steps to move forward with the ban.²⁵ In July 2013, Gov. LePage vetoed a bill that would have placed new requirements on some companies using BPA in food packaging.²⁶

¹¹ Mistler, *Sun Journal (Lewiston, ME)*, Feb. 25, 2011; http://www.maine.gov/ethics/pdf/lobbyist_by_lobbyist_5-23-13.pdf; <http://www.preti.com/Ann-Robinson>.

¹² Rebekah Metzler, Committee Endorses LePage Pick to Run DEP, *Portland Press Herald*, September 27, 2011; Press Release, Ann R. Robinson Appointed to Uniform Laws Commission, *PRWeb*, December 10, 2012.

¹³ Eric Russell, Are Our Laws Prepackaged or Homegrown? Does it Matter?, *Bangor Daily News*, September 13, 2011.

¹⁴ *Id.*

¹⁵ Mistler, *Sun Journal (Lewiston, ME)*, Feb. 25, 2011.

¹⁶ *Id.*

¹⁷ Matthew Stone, LePage Promotes Pair for Legal Positions, *Bangor Daily News*, October 16, 2012.

¹⁸ Metzler, *Portland Press Herald*, Sept. 27, 2011; <http://www.maine.gov/dep/commissioners-office/commissioner.html>; Woodard, *The Phoenix*, February 10, 2011.

¹⁹ Metzler, *Portland Press Herald*, Mar. 26, 2011; Meg Haskell, BPA Ban to Become Law Without LePage's Signature, *Bangor Daily News*, April 22, 2011.

²⁰ Miller, *Bangor Daily News*, Mar. 26, 2011.

²¹ Haskell, *Sun Journal (Lewiston, ME)*, Apr. 22, 2011.

²² Meg Haskell, Environmental Group Accuses LePage of Stalling BPA Ban, *Bangor Daily News*, July 11, 2011.

²³ *Id.*

²⁴ *Id.*

²⁵ Rebekah Metzler, DEP Reminds Makers of Coming BPA Ban, *Kennebec Journal (Augusta, ME)*, August 4, 2011.

²⁶ Paul LePage Vetoes Anti-BPA Bill, *Associated Press*, July 9, 2013.

PRESSURING PUBLIC OFFICIALS

Personnel Problems and Retaliating Against State Employees

The LePage administration has had an unusual number of personnel problems. Several senior managers have been abruptly fired, and some said they were forced out.²⁷ In at least some cases, the governor appears to have taken steps to retaliate against state workers who disagree with his positions. In January 2011, Anthony Marple, the director of MaineCare, Maine's Medicaid program, was fired a day after he appeared before a legislative committee and gave a presentation showing Maine's spending on Medicaid had been stable or declining since 2006, even though enrollment had increased.²⁸ Democratic state legislators raised concerns, saying they believed Mr. Marple, who headed the program for four years, was fired for contradicting a Republican narrative about rising state spending on Medicaid.²⁹ A spokesman for Gov. LePage said the then-new governor was entitled to hire new managers if he wished, but declined to more specifically address the reasons Mr. Marple was fired.³⁰ Mr. Marple declined to comment.³¹

In 2010, Dr. Dora Anne Mills, then-head of Maine's Center for Disease Control and Prevention (CDC), testified that BPA should be a priority under the Kid-Safe Products Act of 2008.³² In December 2010, shortly before Gov. LePage took office, Dr. Mills was hired as the medical director of MaineCare.³³ In February 2011, Gov. LePage fired Dr. Mills.³⁴ Several officials and watchdogs asked whether Dr. Mills' firing was connected with her outspoken opposition to BPA.³⁵ A LePage spokesman denied that, but otherwise would not comment on her termination.³⁶ Dr. Mills declined to comment.³⁷ The LePage administration went on to fire several other senior appointees in the state Department of Health and Human Services.³⁸

²⁷ Eric Russell, Another High-Ranking DHHS Official Resigns, *Bangor Daily News*, November 28, 2011; Bill Trotter, Citing Rift with LePage, Cabinet Member Quits, *Bangor Daily News*, July 20, 2011. In addition, in October 2011, Andrea Lani, a DEP worker whose job had been to oversee a program educating the public on toxic substances and their impacts on children, sued the state, saying she had been demoted for testifying before the legislature in opposition to an effort to rewrite the Kid-Safe Products Act. In April 2012, Ms. Lani and the state settled the lawsuit. The state didn't admit to wrongdoing, but agreed to pay Ms. Lani \$65,000 and provide training to DEP supervisors about the state law prohibiting retaliation against state employees who provide testimony to the legislature. See Stephen Betts, Maine to Pay \$65K to Worker Demoted After Testifying About BPA, *Bangor Daily News*, May 1, 2012; Colin Woodard, The Lobbyist in the Henhouse, *Sunday Telegram*, June 16, 2013.

²⁸ Tom Bell, Dems Rankled by Firing of State's Medicaid Director, *Kennebec Journal (Augusta, ME)*, January 29, 2011.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Mistler, *Sun Journal (Lewiston, ME)*, Feb. 25, 2011.

³³ John Richardson, Health Chief to Take on Medicaid, *Portland Press Herald*, December 21, 2010; John Richardson, Leadership Within State Government Targets MaineCare, *Kennebec Journal (Augusta, ME)*, February 26, 2011.

³⁴ Bonnie Washuk, Governor Fires MaineCare Director Mills, *Sun Journal (Lewiston, ME)*, February 24, 2011.

³⁵ Mistler, *Sun Journal (Lewiston, ME)*, Feb. 25, 2011.

³⁶ Rebekah Metzler, LePage Team Jettisons Mills From New Job, *MaineToday*, February 24, 2011.

³⁷ Lindsay Tice, Workers: 'Reign of Terror' at Maine CDC, *Sun Journal (Lewiston, ME)*, April 21, 2013.

³⁸ Eric Russell, Maine's Director of Family Independence Says She Was Pushed Out by DHHS Head, *Bangor Daily News*, October 18, 2011.

Following Dr. Mills' departure from the Maine CDC, several employees said the work environment disintegrated due to ineffectual leadership.³⁹ After an employee filed a complaint with the Maine Human Rights Commission in April 2013, the state legislature and the Office of Program Evaluation and Government Accountability opened investigations.⁴⁰

Improper Bullying of Employees

Gov. LePage allegedly pressured state Department of Labor (DOL) employees to decide more unemployment-benefit cases in favor of business owners.⁴¹ On March 21, 2013, Gov. LePage held a meeting with DOL employees and scolded them, saying too many cases on appeal from the Bureau of Unemployment were being decided in favor of employees.⁴² The hearing officers at the meeting were apparently told to be more pro-business, and reported to the *Sun Journal* newspaper they felt "abused, harassed and bullied."⁴³ Gov. LePage denied pressuring the hearing examiners, instead describing the meeting as "friendly" and "cordial."⁴⁴ The U.S. Department of Labor and the U.S. Solicitor General are reportedly investigating.⁴⁵ The Maine Attorney General's Office was reviewing the matter to determine whether to launch a separate probe.⁴⁶

CRONYISM

Nepotism

Two of the governor's family members have been hired for state jobs. In 2011, Gov. LePage hired his daughter, Lauren LePage, as his special assistant at a salary of \$40,455.⁴⁷ The state planning office hired Gov. LePage's brother-in-law, Jody Ledoux, in 2012 at a salary of \$68,577 a year.⁴⁸

³⁹ Tice, *Sun Journal* (Lewiston, ME), April 21, 2013.

⁴⁰ Scott Thistle, Watchdog Group to Immediately Launch Investigation of Maine CDC, *Sun Journal* (Lewiston, ME), May 10, 2013.

⁴¹ Christopher Williams, State Employees Say LePage Pressured Them to Deny Jobless Benefits, *Sun Journal* (Lewiston, ME), April 11, 2013.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Chris Williams, LePage Denies He Attempted to Pressure Unemployment Hearing Officers, *Sun Journal* (Lewiston, ME), April 24, 2013.

⁴⁵ AJ Higgins, Federal Labor Officials Investigate LePage Administration, *Maine Public Broadcasting Network*, April 17, 2013; Scott Thistle, Watchdog Group to Immediately Launch Investigation of Maine CDC, *Sun Journal* (Lewiston, ME), May 10, 2013. A spokesman for Gov. LePage said the governor had contacted Acting U.S. Labor Secretary Seth Harris and was told the federal government was conducting an audit of the Maine Department of Labor's handling of unemployment claims due to complaints about inconsistencies, not the governor's comments. See Christopher Cousins, LePage Spoke to Federal Labor Official About Unemployment Claim Audit, *Bangor Daily News*, April 18, 2013.

⁴⁶ Christopher Williams, Employment Lawyers' Group Seeks Federal Investigation of LePage, *Sun Journal* (Lewiston, ME), April 17, 2013.

⁴⁷ MCT, Gov. LePage Has Second Relative on State Payroll, *Seacoast Online*, March 17, 2012.

⁴⁸ *Id.*

TRANSPARENCY

Lack of Transparency

In 2011, Gov. LePage proposed legislation that would have allowed him to deny the public access to large amounts of information, including working papers, memoranda, and legislative proposals.⁴⁹ He would have been able to withhold such documents until he chose to distribute them or until the adjournment of the legislative session during which the documents had been prepared.⁵⁰ Gov. LePage said he believed people were abusing the right to request documents under Maine's Freedom of Access Act for political purposes.⁵¹ Watchdog groups such as the American Civil Liberties Union of Maine, Common Cause, and the Maine Press Association opposed the bill, and the legislature overwhelmingly refused to pass it.⁵²

Gov. LePage also issued an executive order creating a business advisory council and exempting it from state laws guaranteeing the public the right to attend meetings and request documents.⁵³ Past Maine governors created similar groups without exempting them from the state's public access laws.⁵⁴ Gov. LePage said he wanted to encourage frank discussion and shield members of the council from controversy.⁵⁵ The proposal sparked a public backlash, and a spokesman for Gov. LePage said he would put the plan to form the council on hold.⁵⁶

In June 2013, Gov. LePage vetoed a bill that would have required more disclosure of information about donors contributing to gubernatorial transition funds.⁵⁷ The governor said the law questioned the integrity of newly elected governors.⁵⁸

SCANDAL

Inappropriate and Offensive Comments

Every politician has their share of gaffes, but Gov. LePage is so frequently vulgar and offensive he has repeatedly been forced to apologize or explain himself.⁵⁹ Most recently, he said state Sen. Troy Jackson (D) "claims to be for the people but he's the first one to give it to the people without Vaseline."⁶⁰ Gov. LePage's crude comments came after Sen. Jackson issued the

⁴⁹ Eric Russell, LePage's 'Working Papers' Exemption Approved by Legislative Committee, *Bangor Daily News*, March 13, 2012.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Maine Senate Kills Bill to Keep Governor LePage's Papers Secret, *Associated Press*, April 11, 2012.

⁵³ Rebekah Metzler, Governor's Advisory Group Exempted from Access Law, *Portland Press Herald*, March 9, 2011.

⁵⁴ *Id.*

⁵⁵ *Id.*; Christopher Cousins, LePage Stalls Initiative to Create Confidential Advisory Council, *Bangor Daily News*, March 23, 2011.

⁵⁶ *Id.*

⁵⁷ Edward D. Murphy, LePage Vetoes Transparency Bill, Nine Others, *Portland Press Herald*, June 22, 2013.

⁵⁸ *Id.*

⁵⁹ Updated: Gov. LePage's Most Controversial Quotes, 2010-Present, *Bangor Daily News*, March 30, 2013; Sean Sullivan, Paul LePage's Eight Greatest Hits, *Washington Post*, June 21, 2013.

⁶⁰ *Id.*

Democratic response to the governor's budget veto.⁶¹ His outrageous choice of words drew notice during his campaign, when then-candidate LePage informed voters that "as your governor, you're gonna be seeing a lot of me on the front page saying, 'Gov. LePage tells Obama to go to hell.'"⁶²

After taking office, Gov. LePage was criticized by the NAACP and other groups for skipping ceremonies on Martin Luther King Jr. Day. The governor responded: "Tell them to kiss my butt."⁶³ In March 2012, asked to respond to remarks by state Sen. Justin Alford (D), Gov. LePage described the senator as "a little spoiled brat from Portland."⁶⁴ In April 2012, speaking about state workers, he said, "The problem is the middle management of the state is about as corrupt as you can be. Believe me, we're trying every day to get them to go to work, but it's hard."⁶⁵

Perhaps the greatest dustup came in July 2012, when, discussing the Supreme Court's decision to uphold the president's health care reform plan during his weekly radio address, Gov. LePage said, "You must buy health insurance or pay the new Gestapo — the IRS."⁶⁶ His comments set off an uproar and Gov. LePage publicly apologized for what he described as his insensitivity, acknowledging millions of innocent people had been murdered during the Holocaust.⁶⁷ He also apologized privately to the executive director of the Jewish Community Alliance of Southern Maine.⁶⁸ While explaining his comments to a reporter a few days later, however, he again compared the IRS to the Gestapo, saying, "The Holocaust was a horrific crime against humanity and, frankly, I would never want to see that repeated. Maybe the IRS is not quite as bad — yet."⁶⁹

In May 2013, Gov. LePage installed a television in the Hall of Flags, a space in the State House that is typically under the control of the legislature and cannot be used for political purposes.⁷⁰ The governor used the television to show seemingly political messages, including a ticker of the number of days that had passed since he proposed a budget and, at one point, images of the governor at Memorial Day events.⁷¹ Democrats in the legislature ordered Gov. LePage to remove the television, setting off an increasingly contentious showdown during which the governor used incendiary language regarding what he described as a pattern of censorship.⁷²

⁶¹ *Bangor Daily News*, March 30, 2013.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Bangor Daily News*, Mar. 30, 2013.

⁶⁶ Chris Gentilviso, Paul LePage, Maine Governor, Blasts Obamacare, Calls IRS 'The New Gestapo', *Huffington Post*, July 8, 2012; Matthew Stone, LePage Apologizes for Gestapo Remarks, *Bangor Daily News*, July 13, 2012.

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Christopher Cousins, LePage Moves Controversial TV Inside His Office, But Still Facing Visitors, *Bangor Daily News*, May 28, 2013.

⁷¹ *Id.*

⁷² Christopher Cousins, LePage Says Medicaid Expansion Pressure, Democrats' 'Censorship' Starts in Washington, *Bangor Daily News*, May 29, 2013.

“The minute we start stifling our speech, we might as well go home, roll up our sleeves and get our guns out,” he said.⁷³

PARTISAN POLITICS

Voter ID

In 2011, Gov. LePage supported and signed a bill that would eliminate Election Day registration, a longstanding tradition in Maine.⁷⁴ The new law was rejected in a voter referendum.⁷⁵ Gov. LePage also pushed for a voter identification bill that would have required voters to show photo identification.⁷⁶ The bill ultimately did not pass.⁷⁷

⁷³ *Id.*

⁷⁴ Steve Mistler, Coalition: LePage, Lawmakers Who Repealed Same-Day Voter Law Have Used It Themselves, *Sun Journal (Lewiston, ME)*, September 27, 2011.

⁷⁵ Glen Adams, After Maine Vote, Focus Shifts to Voter ID Bill, *Associated Press*, November 13, 2011.

⁷⁶ *Id.*

⁷⁷ Eric Russell, Lawmakers Reject Voter ID Bill But Authorize Study of Election System, *Bangor Daily News*, February 3, 2012.

ROBERT MCDONNELL

Gov. Robert McDonnell (R-VA) was elected in 2009. Under the state's term limits law, he cannot run for re-election in 2013. His inclusion stems from: (1) investigations into whether he improperly accepted gifts in exchange for official action; (2) using his position to enrich himself and his family members; (3) awarding state money to a professional sports team after receiving gifts and campaign contributions; (4) failing to report his wife's paid position as a consultant on his statement of economic interests; and (5) signing a controversial voter ID bill.

CORRUPTION

Improperly Accepting Gifts in Exchange for Official Action

The Federal Bureau of Investigation and Virginia State Police are investigating whether Gov. McDonnell improperly helped the chief executive of a Virginia dietary supplement company in exchange for thousands of dollars' worth of gifts to the governor and his family.¹ A federal grand jury is hearing evidence in the case.² In addition, State Attorney General Ken Cuccinelli has asked the Richmond Commonwealth Attorney's office to investigate whether Gov. McDonnell violated financial disclosure laws.³

Jonnie Williams, Sr. is the chief executive officer of Star Scientific, Inc., which is based in Glen Allen, VA.⁴ Star Scientific, Inc. has donated at least \$108,000 to Gov. McDonnell's campaign and political action committee (PAC), and Gov. McDonnell's spokesman said Mr. Williams and his wife, Celeste, are "family friends" of the McDonnells.⁵ The McDonnells made frequent use of Star Scientific's corporate jet on the campaign trail before the 2009 gubernatorial election.⁶ Gov. McDonnell's campaign reported \$28,584 in in-kind donations from Star Scientific, Inc. for air travel in 2009 alone.⁷ Gov. McDonnell's PAC, Opportunity Virginia, also reported receiving \$79,866 in flights from Star Scientific after Gov. McDonnell won the election.⁸

¹ Rosalind S. Helderman, More Ties Between Va's McDonnells and Star Scientific are Revealed, *Washington Post*, May 10, 2013.

² Rosalind S. Helderman, Virginia Delegate Will Be Witness Before Grand Jury in Probe Related to McDonnell, *Washington Post*, June 9, 2013. Virginia Del. David Ramadan (R-Loudoun) confirmed he had been called to testify before the grand jury. Del. Ramadan, a jeweler, would not comment further on his testimony or publicly discuss the details of the subpoena he received. Investigators have also reportedly subpoenaed Patricia Kluge, former owner of the Kluge Winery, to testify. See Jim Nolan, Star Scientific CEO Financed Shopping Trip for First Lady, *Richmond Times-Dispatch*, June 29, 2013.

³ Jim Nolan, City Prosecutor Investigating McDonnell's Disclosures, *Richmond Times-Dispatch*, May 23, 2013.

⁴ Rosalind S. Helderman and Laura Vozzella, Va. Gov. McDonnell on Two-Way Street with Chief Executive of Struggling Company, *Washington Post*, March 30, 2013.

⁵ *Id.*; Virginia Public Access Project, List Donors: All Receipts Reported by Bob McDonnell Committees, 2009-2013.

⁶ Helderman and Vozzella, *Washington Post*, Mar. 30, 2013.

⁷ *Id.*; Follow the Money, Contributions Lookup, Bob McDonnell, 2008-Present.

⁸ Helderman and Vozzella, *Washington Post*, Mar. 30, 2013; Virginia Public Access Project, All Receipts Reported by Bob McDonnell Committees from Star Scientific Inc., 2008-2013.

Virginia law does not limit the value of gifts holders of public office may accept, and does not prohibit accepting gifts from those seeking something of value from the state.⁹ In addition, politicians are required to disclose only limited information about gifts, and do not have to report gifts to their family members.¹⁰ The law does prohibit accepting gifts in exchange for official action.¹¹ The full extent of the personal gifts Mr. Williams and Star Scientific have provided to the governor and his family is still unclear, but the value of the gifts publicly disclosed so far is considerable.

In 2011, for instance, Gov. McDonnell reported a gift valued at \$2,268 from Mr. Williams for “lodging and entertainment.”¹² Two years later, Gov. McDonnell acknowledged the sum represented the value of a 2011 vacation at the Williams’ lake house in Smith Mountain Lake, VA.¹³ In addition, the McDonnells borrowed the Williams’ Range Rover to travel to the lake house and used their hosts’ Ferrari, valued at \$190,000, for the trip back to Richmond.¹⁴

According to the *Washington Post*, at one point, Maureen McDonnell, the governor’s wife, apparently told Mr. Williams she wanted his help obtaining a dress by designer Oscar de la Renta for her husband’s inauguration.¹⁵ Mr. Williams was willing to buy it, but a staff member said such a gift would be against the rules.¹⁶ In April 2011, however, Mr. Williams took Ms. McDonnell shopping at the upscale Bergdorf Goodman department store in New York City, buying her an Oscar de la Renta jacket worth at least \$10,000, a Louis Vuitton handbag, a designer dress, and two pairs of designer shoes.¹⁷

In May 2011, Mr. Williams wrote a \$50,000 check to Ms. McDonnell.¹⁸ On the same day, Mr. Williams spent \$15,000 on catering for the June 2011 wedding of Gov. McDonnell’s daughter, Cailin.¹⁹ The wedding was held at the governor’s mansion, and the lavish menu included fresh poached jumbo shrimp and stuffed free-range chicken breast.²⁰ Gov. McDonnell confirmed the gift only after it was reported by the *Washington Post*.²¹ He said he did not disclose the gift on his personal disclosure forms because it was a wedding gift to Cailin McDonnell and her husband, not to him.²² The *Washington Post*, citing sources familiar with the transactions between Mr. Williams and the McDonnells, said the governor believed the money Mr. Williams

⁹ Rosalind S. Helderman and Laura Vozzella, McDonnell’s Disclosures Highlight Virginia’s Loose Rules for Personal Gifts to Politicians, *Washington Post*, May 17, 2013.

¹⁰ *Id.*

¹¹ *Id.*

¹² Virginia Public Access Project, Personal Finances Summary for Bob McDonnell: Statement of Economic Interests: Gifts and Payments for Meetings/Publications from Jonnie Williams, Sr., 2011.

¹³ *Id.*; Rosalind S. Helderman, Donor Gave McDonnell and Family a Lake-House Vacation, *Washington Post*, April 18, 2013.

¹⁴ *Id.*

¹⁵ Nolan, *Richmond Times-Dispatch*, June 25, 2013.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Rosalind S. Helderman, McDonnell’s Corporation, Wife Allegedly Benefited from \$120,000 More from Donor, *Washington Post*, July 9, 2013.

¹⁹ *Id.*; Helderman and Vozzella, *Washington Post*, Mar. 30, 2013.

²⁰ *Id.*

²¹ Helderman, *Washington Post*, Apr. 18, 2013.

²² Helderman and Vozzella, *Washington Post*, Mar. 30, 2013.

gave to his wife in May 2011 was a loan.²³ On his statement of economic interests for 2011 and 2012, the governor reported an immediate family member owed between \$10,001 and \$50,000 to a creditor, one year describing the creditor as in “medical services” and the next year as in “health care.”²⁴

Documents later showed, however, that Gov. McDonnell personally signed the catering contract and paid nearly \$8,000 in deposits, indicating he was responsible for the costs.²⁵ In addition, the caterer later issued a refund check of more than \$3,500 to the governor’s wife, rather than to Cailin McDonnell or Mr. Williams.²⁶

In August 2011, apparently at the request of the first lady, Mr. Williams gave Gov. McDonnell a \$6,500 Rolex watch.²⁷ The governor did not report the watch as a gift on his statement of economic interest.²⁸ The request for the gift came just minutes before a meeting arranged by Ms. McDonnell between a high-level state health official and Mr. Williams.²⁹

The McDonnells vigorously promoted Star Scientific’s flagship product Anatabloc, an anti-inflammatory supplement designed to help patients with Alzheimer’s and multiple sclerosis.³⁰ Three days before Cailin McDonnell’s wedding, Ms. McDonnell appeared at a Florida medical research conference to praise anatabine, the active chemical in Anatabloc.³¹

Three months after the wedding, the McDonnells held the official launch party for Anatabloc at the governor’s mansion.³² Ms. McDonnell pushed the governor to attend the luncheon for Star Scientific, even though a number of his aides questioned the legality of hosting such an event.³³ The party was paid for by the governor’s PAC.³⁴ The company also used a photo of Gov. McDonnell holding a package of Anatabloc for promotional purposes on the product’s Facebook page. The governor’s spokesman said he hadn’t authorized use of his photo, and it was subsequently removed.³⁵

Other transactions and ties flesh out the picture of a close relationship between the McDonnells, Williams, and Star Scientific. In October 2011, a Star Scientific investor group advertised the first lady as a “featured guest” at an Anatabloc event in Virginia.³⁶ Two similar events were held

²³ Helderman, *Washington Post*, July 9, 2013.

²⁴ *Id.*

²⁵ Rosalind S. Helderman, New Documents Raise More Questions About Financing of McDonnell's Daughter's Wedding, *Washington Post*, April 9, 2013.

²⁶ *Id.*

²⁷ Carol D. Leonnig and Rosalind S. Helderman, Donor Bought Rolex Watch for Virginia Gov. McDonnell, People Familiar With Gift Say, *Washington Post*, June 25, 2013.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Helderman and Vozzella, *Washington Post*, Mar. 30, 2013.

³¹ *Id.*; <http://www.rfdn.org/about.html>.

³² Helderman and Vozzella, *Washington Post*, Mar. 30, 2013.

³³ Rosalind S. Helderman, McDonnell Aides Expressed Concern About His Role in Event for Star Scientific, *Washington Post*, June 4, 2013.

³⁴ Helderman and Vozzella, *Washington Post*, Mar. 30, 2013.

³⁵ *Id.*

³⁶ Rosalind S. Helderman, More Ties Between Va.'s McDonnells and Star Scientific Are Revealed, *Washington Post*, May 10, 2013.

that month in Michigan and California.³⁷ It is unclear whether Ms. McDonnell attended the other events, but travel records for state police who protect the first couple suggest she traveled to Michigan on the day of the event.³⁸

In March 2012, Mr. Williams gave \$50,000 to MoBo Real Estate Partners, a realty corporation owned by the governor and his sister.³⁹ Mr. Williams' trust gave the company an additional \$20,000 sometime in the spring of 2012.⁴⁰

The *Washington Post*, citing a source, reported MoBo's corporate records showed the money from Mr. Williams was treated as a low-interest loan.⁴¹ The terms did not require any payments for three years, but called for MoBo to pay back the money by 2015.⁴² The loans did not appear on Gov. McDonnell's statement of economic interests.⁴³ Virginia law requires elected officials to disclose any loans made to them and their family, but they are not required to disclose loans to their businesses.⁴⁴

In July 2012, Ms. McDonnell included packets of Anatabloc in a gift bag for the spouses of governors who were in Virginia for a meeting of the National Governors Association.⁴⁵ Ms. McDonnell also frequently invited Mr. Williams to fundraising and charity events, and Mr. Williams suggested attendees for an event at the executive mansion.⁴⁶ In addition, Star Scientific provided air travel, lodging and "event expenses" totaling \$7,382 for Gov. McDonnell to travel to Massachusetts in 2012.⁴⁷ The purpose of the trip is unclear.

In December 2012, Mr. Williams gave \$10,000 to Jeanine McDonnell, another of the governor's daughters.⁴⁸ The money was meant to cover some of the costs of her upcoming wedding.⁴⁹

SELF-ENRICHMENT

Enriching Himself and His Family

Anniversary Party

In 2011, Gov. McDonnell announced Barboursville Vineyards, a Virginia-based winery, had struck a deal to export wines to China.⁵⁰ Gov. McDonnell had taken a trip to Asia earlier that

³⁷ *Id.*

³⁸ *Id.*

³⁹ Helderman, *Washington Post*, July 9, 2013.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² Helderman, *Washington Post*, July 9, 2013.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Rosalind S. Helderman, More Ties Between Va.'s McDonnells and Star Scientific Are Revealed, *Washington Post*, May 10, 2013.

⁴⁶ *Id.*

⁴⁷ Virginia Public Access Project, Personal Finances Summary for Bob McDonnell: Statement of Economic Interests: Gifts and Payments for Meetings/Publications from Star Scientific Inc., 2012.

⁴⁸ Helderman, *Washington Post*, July 9, 2013.

⁴⁹ *Id.*

⁵⁰ Press Release, Gov. Bob McDonnell, Governor McDonnell Announces Wine Export Agreement Between Barboursville Vineyards and Tianjin Tewoo Group, August 2, 2011.

year, and touted the state's growing wine industry.⁵¹ Ms. McDonnell was also on hand at the signing of the Barboursville deal.⁵²

Hours after the signing, Barboursville Vineyards' owners held an anniversary party for the McDonnells at the company's winery.⁵³ The McDonnells did not pay for the party, which included nearly 100 close friends and relatives of the first family.⁵⁴ On his 2011 statement of economic interest, Gov. McDonnell reported a \$3,000 gift from Barboursville Vineyards for "lodging and entertainment."⁵⁵ It isn't clear how he estimated the value of the party.

A Barboursville spokesman said the party was a joint celebration of the McDonnells' 35 year marriage and the company's 35 years in business, though guests said it seemed largely a celebration for the McDonnells.⁵⁶

Vacations

In 2010, 2011, and 2012, Delta Star, a Lynchburg-based power substation and transformer manufacturer, paid for the McDonnells' family vacation at Smith Mountain Lake.⁵⁷ The company shared the cost of the 2011 trip with Mr. Williams.⁵⁸

Gov. McDonnell has reported receiving more than \$14,000 in gifts and \$64,000 in campaign and PAC contributions from Delta Star since 2009.⁵⁹

In January 2011, Delta Star was promised \$800,000 in state incentives to create jobs in Virginia and expand its corporate headquarters.⁶⁰ The package included \$100,000 from the Governor's Opportunity Fund, a discretionary fund controlled by the governor and meant to secure business development projects for the state.⁶¹

Wedding Gown and Limousine Service

Cailin McDonnell appears to have used her father's position to obtain a free wedding dress. Maya Holihan, the owner of Maya Couture Bridal Salon in Hampton Roads, VA, said she gave Cailin McDonnell a strapless satin Maggie Sottero gown valued at \$1,000 "because it's the governor's daughter" and "we really just wanted to do business with them."⁶²

⁵¹ *Id.*

⁵² *Id.*

⁵³ Helderman and Vozzella, *Washington Post*, May 17, 2013.

⁵⁴ *Id.*

⁵⁵ Virginia Public Access Project, Personal Finances Summary for Bob McDonnell: Statement of Economic Interests: Gifts and Payments for Meetings/Publications from Barboursville Vineyards, 2011.

⁵⁶ Helderman and Vozzella, *Washington Post*, May 17, 2013.

⁵⁷ *Id.*; <http://www.deltastar.com/AboutUs.aspx>.

⁵⁸ Helderman and Vozzella, *Washington Post*, May 17, 2013.

⁵⁹ *Id.*; Virginia Public Access Project, All Receipts Reported by Bob McDonnell Committees from Delta Star Inc, 2009-2013.

⁶⁰ Helderman and Vozzella, *Washington Post*, May 17, 2013.

⁶¹ *Id.*; http://www.yesvirginia.org/whyvirginia/financial_advantages/business_incentives.aspx.

⁶² Roxanne Roberts and Amy Argetsinger, How Much Did the McDonnell Wedding Cost, After All?, *Washington Post*, May 1, 2013; Helderman, *Washington Post*, Apr. 9, 2013.

In addition, Paul C. Davis, who contributed \$500 to the governor's campaign in 2009, gave the couple the use of his 19-passenger Hummer limousine for the wedding.⁶³ Mr. Davis, who describes the governor as an old friend, took members of the wedding party from the church to the reception at the governor's mansion.⁶⁴ Mr. Davis could not recall whether the bride and groom rode in the limo, but was fairly certain Gov. McDonnell and the first lady had not.⁶⁵ Mr. Davis said he typically charges \$100 per hour for use of the limo and requires a seven-hour minimum commitment, and the limo was in use for about two hours after the McDonnell wedding.⁶⁶

Improper Use of State Resources

Todd Schneider, Virginia's executive chef, left his job last year amid a state police investigation.⁶⁷ In March 2013, Mr. Schneider was indicted on charges of felony embezzlement.⁶⁸ Mr. Schneider's attorney claims his client is a whistleblower who brought evidence of wrongdoing by Gov. McDonnell and his wife to authorities.⁶⁹ In court documents, Mr. Schneider's lawyers have said Mr. Schneider was required to cater personal and political events at the mansion but was denied compensation or instructed to take food or supplies from the mansion as payment.⁷⁰ A court filing said the events were for the governor's political action committee, the Republican Party of Virginia, and the governor's former law firm.⁷¹ Mr. Schneider's lawyers have also filed a motion seeking information on instances when the McDonnell family consumed or took "state goods and resources" from the mansion.⁷²

According to Mr. Schneider, the McDonnell family regularly took items for their own personal benefit.⁷³ Among other things, he alleged Gov. McDonnell's twin sons took "energy drinks and supplements" from the mansion to college.⁷⁴ In addition, he said the governor's daughter Rachel took "flats of eggs" and liquor from the house and Ms. McDonnell gave pots and pans to her three daughters.⁷⁵ Mr. Schneider also said one of the governor's daughters, Jeanine McDonnell, lived at the gubernatorial cottage at Camp Pendleton in Virginia Beach for several months in

⁶³ Julian Walker, Free Limousine Service is Latest Issue for McDonnell, *The Virginian Pilot (Hampton Roads)*, July 1, 2013.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Laura Vozzella, Ex-Chef at Va. Governor's Mansion Charged, *Washington Post*, March 28, 2013.

⁶⁸ *Id.*

⁶⁹ Steve Szkotak, Once Celebrated Chef at Va. Governor's Mansion Now Central Figure in Growing Political Drama, *Washington Post*, May 11, 2013; Trip Gabriel, Scandal Involving Gifts and Theft Charges Complicates Politics in Virginia, *New York Times*, May 18, 2013; Laura Vozzella, Trial Date Set for McDonnell's Former Chef, *Washington Post*, May 14, 2013.

⁷⁰ Jim Nolan and Olympia Meola, Ex-Chef Seeks McDonnell Family Expense Details, *Richmond Times-Dispatch*, April 24, 2013; Rosalind S. Helderman, Ex-Chef: Governor McDonnell Used Virginia Assets for Personal, Political Purposes, *Washington Post*, July 1, 2013.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Helderman, *Washington Post*, July 1, 2013.

⁷⁵ Nolan and Meola, *Richmond Times-Dispatch*, Apr. 24, 2013.

2012.⁷⁶ In June 2013, the *Washington Post* reported the McDonnells had billed the state for household items such as vitamins, sunscreen, body wash, deodorant, sleep aids, a dietary “cleanse” system, and even dog vitamins.⁷⁷ The McDonnells continued to bill the state for some items even after mansion officials said the expenses should not be covered by the state.⁷⁸ In July 2013, the governor repaid the state nearly \$2,400 for items bought with the mansion credit card.⁷⁹

The McDonnells also improperly used mansion staff to run personal errands for their children, billing the costs to the mansion.⁸⁰ For example, in July 2011, the family sent a state employee to pick up a pair of altered pants for Rachel McDonnell.⁸¹ In November 2011, a mansion employee picked up a box for Cailin McDonnell’s wedding dress.⁸² The cost of both transactions were put on the mansion credit card.⁸³

Pay to Play with Washington Redskins

In June 2012, the Washington Redskins reached a deal with Gov. McDonnell to keep its NFL training camp in Virginia.⁸⁴ Gov. McDonnell approved a package of incentives totaling \$6.5 million, including \$4 million from funds solely controlled by the governor.⁸⁵ Gov. McDonnell apparently finalized the deal without consulting the state legislature, which he knew would oppose it.⁸⁶ After the deal was reported publicly, House Appropriations Committee Chairman Lacey Putney (I) said Gov. McDonnell failed to make a case for using taxpayer money for the park.⁸⁷ In addition, he and other members said it wasn’t clear the state was really at risk of losing the Redskins, the justification for the deal.⁸⁸

Gov. McDonnell has received tens of thousands of dollars in gifts and campaign contributions from the team. During his 2009 gubernatorial campaign, Gov. McDonnell reported receiving \$50,000 in contributions from the Washington Redskins.⁸⁹ On his 2010 statement of economic interest, Gov. McDonnell reported a \$200 gift from Redskins owner Daniel M. Snyder for “food,

⁷⁶ *Id.*

⁷⁷ Laura Vozzella, Mansion Spending Records Indicate Improper Billing by Virginia Governor and His Family, *Washington Post*, June 16, 2013.

⁷⁸ *Id.*

⁷⁹ Laura Vozzella and Rosalind S. Helderman, McDonnell Lawyer Says Children Took Minimal Food from Mansion, *Washington Post*, July 8, 2013.

⁸⁰ Vozzella, *Washington Post*, June 16, 2013.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Jim Iovino, McDonnell Administration Grilled over Redskins Deal, *NBC Washington*, June 12, 2012; Timothy P. Carney, Bob McDonnell Gives Your Money to Dan Snyder, *Washington Examiner*, June 7, 2012; Washington Redskins' Move: McDonnell's Staff Questioned, *Associated Press*, June 18, 2012.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Associated Press*, June 18, 2012.

⁸⁹ Virginia Public Access Project, All Receipts Reported by Bob McDonnell Committees from Washington Redskins, 2008-2013.

catering, event expenses.”⁹⁰ On his 2012 statement of economic interest, Gov. McDonnell reported gifts totaling \$19,000 from the Washington Redskins, including tickets to the Redskins’ game suite.⁹¹ Past Virginia governors have reported gifts from the team of far smaller value.⁹²

A Redskins executive said the team’s lease provides a suite for the governor of Maryland and local county officials and “on rare occasions, based on availability,” the team provides a suite for the governor of Virginia.⁹³ The governor’s spokesman denied there was any connection between the tickets and the deal for Redskins Park.⁹⁴

TRANSPARENCY

United Co.

In June 2013, the *Washington Post* reported United Co., one of Virginia’s largest coal companies, paid Ms. McDonnell \$36,000 to serve as a consultant for the company and the company’s charitable foundation.⁹⁵ On his 2011 and 2012 statements of economic interest, Gov. McDonnell reported his wife was paid as a trustee of the coal company’s family foundation, the Frances G. and James W. McGlothlin Foundation.⁹⁶ The governor was not legally required to disclose the salary his wife received for serving on the charitable board.⁹⁷ James McGlothlin, the company’s chairman and chief executive officer, however, said the first lady was never named to the foundation’s board and her salary was paid by the company not the foundation.⁹⁸ The governor is required to disclose employment payments to immediate family members of more than \$10,000 a year.⁹⁹

PARTISAN POLITICS

Voter ID

In March 2013, Gov. McDonnell signed a voter identification bill into law.¹⁰⁰ The law, slated to go into effect in 2014, requires photo identification and disallows the use of utility bills, bank statements and Social Security cards.¹⁰¹ The bill could not immediately go into effect because, under Section 5 of the 1965 Voting Rights Act, Virginia was legally required to get preclearance

⁹⁰ Virginia Public Access Project, Personal Finances Summary for Bob McDonnell, Statement of Economic Interests: Gifts and Payments for Meetings/Publications from Daniel M Snyder, 2010.

⁹¹ Virginia Public Access Project, Personal Finances Summary for Bob McDonnell, Statement of Economic Interests: Gifts and Payments for Meetings/Publications from Washington Redskins, 2012.

⁹² Helderman and Vozzella, *Washington Post*, May 17, 2013.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ Rosalind S. Helderman, Virginia Governor’s Wife Was Paid \$36,000 as Consultant to Coal Philanthropy, *Washington Post*, June 2, 2013.

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ Helderman, *Washington Post*, June 2, 2013.

¹⁰⁰ Ian Simpson, Virginia Governor Approves Photo ID Requirement for Voters, *Reuters*, March 26, 2013.

¹⁰¹ *Id.*; Ryan J. Reilly, Voting Rights Group Decries Virginia’s New Restrictive Voter ID Law, *Huffington Post*, March 26, 2013.

from the Department of Justice (DOJ) for changes in its election laws.¹⁰² As a result of the Supreme Court's decision in *Shelby v. Holder*, however, preclearance is no longer required and the law can take effect.¹⁰³ Gov. McDonnell said the bill is stuck "in a little bit of limbo" in the wake of the decision, but likely still will go into effect in July 2014.¹⁰⁴

¹⁰² *Id.*; Chelyen Davis, Ruling Raises Questions About Virginia Voter I.D. Law, *Fredericksburg Free Lance Star*, June 27, 2013.

¹⁰³ Adam Liptak, Supreme Court Invalidates Key Part of Voting Rights Act, *New York Times*, June 25, 2013.

¹⁰⁴ Davis, *Fredericksburg Free Lance Star*, June 27, 2013.

RICK PERRY

Gov. Rick Perry (R-TX), the longest serving governor in Texas history, assumed the office of governor in 2000, after George W. Bush resigned. He was elected to a full term in 2002 and re-elected in 2006 and 2010. Gov. Perry unsuccessfully ran for the 2012 Republican presidential nomination. He has said he will not run for re-election in 2014, but has not ruled out running for president in 2016.

His inclusion stems from: (1) promotion of a political culture rife with cronyism and pay-to-play appointments; (2) the pervasiveness and influence of revolving-door lobbyists in his administration; (3) accepting free trips on the private planes of donors and special interests; (4) abusing his position to benefit his family; (5) simultaneous collection of a state government salary and state retirement pension; (6) financial disclosure reporting violations; (7) repeated flouting of transparency standards and blocking of public disclosure; (8) misuse of state resources for his presidential campaign; (9) advocacy for voter identification restrictions; and (10) killing a measure that would have required politically active nonprofits to disclose their donors. He was included in CREW's 2010 report on governors.¹

CRONYISM

Culture of Cronyism and Pay-to-Play Appointments

Gov. Perry has appointed hundreds of campaign donors to state posts and fundraised aggressively among his appointees. According to Texans for Public Justice, between January 2001 and June 2010, Gov. Perry raised more than \$17 million from 921 of his appointees and their spouses.² Those contributions made up 21 percent of the \$83.2 million Gov. Perry raised during that period.³

Texas Enterprise Fund and Texas Emerging Technology Fund

The Texas Enterprise Fund (TEF) was designed to lure businesses and jobs to Texas.⁴ It has made \$487.4 million in state-funded corporate grants since 2003.⁵ The Texas Emerging Technology Fund (TETF), launched in 2005 and was intended to attract technology and research-based capital investments to Texas, has dispensed nearly \$200 million in state-funded grants to 137 companies since 2005.⁶ The legislature created both funds at Gov. Perry's request.⁷ The TEF review process is overseen by the governor's office, while the TETF evaluation process is conducted by an advisory committee composed of 17 members, 13 of

¹ For more information, see CREW's Worst Governors 2010, available at <http://www.citizensforethics.org/worstgovernors>.

² Governor Perry's Patronage: Donor-Appointees Gave the Governor \$17 Million, Texans for Public Justice, September 2010.

³ *Id.*

⁴ State of Texas, Office of the Governor, *Texas Enterprise Fund 2013 Legislative Report*.

⁵ *Id.*

⁶ State of Texas, Office of the Governor, *Texas Emerging Technology Fund Fiscal Year 2012 Legislative Report*.

⁷ *Id.*; State of Texas, Office of the Governor, *Texas Enterprise Fund 2013 Legislative Report*.

whom are Perry appointees.⁸ Every TEF and TETF award must receive approval from the governor, lieutenant governor, and Texas House speaker, all of whom are currently Republican.⁹ Independent watchdogs and critics from both political parties have found the funds to be riddled with conflicts of interest.¹⁰ Further, they lack transparency, oversight, and effectiveness, and have been characterized as slush funds used to reward the governor's political allies and donors.¹¹

In March 2010, the *Texas Observer* found that since TEF's inception, 20 of the 55 grant recipients gave money directly to Gov. Perry's campaign or to the Republican Governors Association (RGA), a group that supports Republican candidates for governor across the country.¹² Gov. Perry was the RGA's chairman in 2008 and 2011 and its finance chair in 2009 and 2010.¹³ Those 20 companies collectively received \$174.2 million from TEF and donated \$2.2 million to Gov. Perry and the RGA, with several of the donations made close in time to when the companies received grants from TEF.¹⁴ A 2010 investigation by Texans for Public Justice found more than 20 of the 45 companies analyzed did not meet or struggled to meet job creation goals, with only 13 meeting all the terms of their contracts.¹⁵ TEF has yet to face a comprehensive state audit.¹⁶

An October 2010 investigation by the *Dallas Morning News* found TETF gave approximately \$16 million to firms in which major contributors to Gov. Perry were either investors or officers.¹⁷ In addition, the paper uncovered evidence of Perry donors with significant ownership interests in multiple TETF-funded companies and a TETF board member who made an investment in a TETF-funded company he reviewed.¹⁸ At one point, Gov. Perry bypassed the review process to

⁸ *Id.*

⁹ *Id.*

¹⁰ Aman Batheja, [Calls for Reform of Incentive Programs Grow Louder](#), *Texas Tribune*, December 12, 2012; [Audit of Texas Enterprise Fund Finds Bipartisan Favor](#), *Star-Telegram*, April 11, 2013; Paul J. Weber, [Gov. Perry's Tech Fund Shows \\$6M in Potential Losses](#), *Associated Press*, February 4, 2013; James Drew, [Report Says Texas Enterprise Fund Not Creating Jobs Promised](#), *Dallas Morning News*, January 28, 2010.

¹¹ *Id.*

¹² Dave Mann, [Slush Fun: At Least One Texan Has Benefited from Rick Perry's Enterprise Fund](#), *Texas Observer*, March 11, 2010.

¹³ Matea Gold, [Governors Group is Perry's Largest Donor](#), *Los Angeles Times*, September 13, 2011. According to a September 2011 report by Texans for Public Justice, Gov. Perry's gubernatorial donors gave the RGA 32 percent of \$216.9 million it raised between January 2006 and June 2011, or \$68.7 million. These same donors contributed \$13.7 million to Gov. Perry's campaigns since 2001, 13 percent of the \$103 million the governor raised. See [Crony Capitalism: The Republican Governors Association in the Perry Years](#), Texans for Public Justice, September 2011.

¹⁴ *Id.* An October 2011 report by Texans for Public Justice found that 3 of the 37 companies in which Gov. Perry held stock received \$12.2 million in grants from TEF. Gov. Perry sold his holdings in two of those companies, Hewlett-Packard and General Electric, at a loss in 2010. These holdings came to light after Gov. Perry dissolved a 15-year-old blind trust and publicly disclosed its contents as part of his presidential bid. See [Perry's Piggybank: Texas Enterprise Fund Recipients Gave \\$7 Million to Rick Perry and His Republican Governors Association](#), Texans for Public Justice, October 2011.

¹⁵ [Recession Pounds Perry's Jobs Fund](#), Texans for Public Justice, January 2010.

¹⁶ Kelley Shannon, [Senate Committee Votes for Audit of Texas Enterprise Fund](#), *Dallas Morning News*, April 10, 2013.

¹⁷ James Drew, Steve McGonigle, and Ryan McNeill, [Perry's Tech Fund Aided Firms with Ties to His Donors](#), *Dallas Morning News*, October 3, 2010.

¹⁸ *Id.*

award a \$50 million grant to his alma mater, Texas A&M.¹⁹ A May 2011 investigation found TETF paid \$27 million to companies founded or advised by six advisory board members, all of whom were appointed by Gov. Perry.²⁰ The full extent to which Gov. Perry's donors have benefited from TETF is difficult to gauge because TETF's decision-making process is opaque.²¹ The advisory committee meets in sessions closed to the public and does not take minutes.²² In 2011, the Texas state auditor's office recommended that TETF make significant changes to promote greater transparency and accountability after finding TETF had no consistent process for awarding grants, did not stop advisory board members from accepting compensation from grant recipients, and did not submit all required annual reports.²³

During its most recent session, the Texas legislature passed a bill requiring an audit of TETF.²⁴ In June 2013, Gov. Perry signed the bill.²⁵ Lt. Gov. David Dewhurst (R), acting as president of the Senate, killed a bill that would have shifted the TETF's grant-making authority to an independent board.²⁶

Teacher Retirement System

In recent years, Gov. Perry has appointed at least four top donors or bundlers to the board of the Teacher Retirement System of Texas, a \$110 billion pension fund that is among the largest in the country.²⁷ In some cases, these appointees appear to have pressured the fund's management into investing in firms whose investors, officers, or partners had donated to the governor.²⁸ In a 2009 letter to a board trustee, an investment manager at the pension fund wrote that the fund's chief investment officer urged him and other employees not to object to these investments, including the fund's investment in two firms whose partners and former partners donated more than \$1 million to Gov. Perry's campaigns.²⁹

Cancer Prevention and Research Institute of Texas

The Cancer Prevention and Research Institute of Texas (CPRIT), a \$3 billion state-funded program established in 2007 to fight cancer with the backing of Gov. Perry and cyclist Lance Armstrong, is under scrutiny due to concerns about its review process and conflict-of-interest issues.³⁰ Since 2010, CPRIT has awarded nearly 500 grants for a total of \$836 million.³¹

¹⁹ *Id.*

²⁰ Todd J. Gillman, Texas Emerging Technology Fund Panel Members Tied to Award Recipients, *Dallas Morning News*, May 28, 2011.

²¹ Drew, McGonigle, and McNeill, *Dallas Morning News*, Oct. 3, 2010.

²² *Id.*

²³ Texas State Auditor's Office, An Audit Report on the Emerging Technology Fund, April 2011.

²⁴ Texas Lawmakers Require Audit of Development Fund, *Associated Press*, May 23, 2013.

²⁵ <http://www.legis.state.tx.us/BillLookup/history.aspx?LegSess=83R&Bill=SB1390>.

²⁶ Laylan Copelin, Dewhurst Kills Bill that Would've Shifted Power on Tech Grants, *Austin American-Statesman*, May 23, 2013.

²⁷ Nicholas Confessore and Michael Luo, Perry Mines Texas System to Raise Cash for Campaigns, *New York Times*, Aug. 20, 2011.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Becca Aaronson, Investigations of CPRIT's Grants Process Are Pushed, *Texas Tribune*, December 3, 2012.

Most of CPRIT's board members were appointed by Gov. Perry, Lt. Gov. Dewhurst, and House Speaker Joe Straus (R). A November 2012 investigation by the *Dallas Morning News* uncovered connections between some of the governor's campaign contributors and companies receiving CPRIT grants.³² For example, in 2007, David Shanahan, a Dallas businessman, raised \$50,000 for Gov. Perry's campaign, and in 2011, Caliber Biotherapeutics, a subsidiary of one of Mr. Shanahan's companies, received a \$12.8 million CPRIT grant even though reviewers gave Caliber the lowest science score of all companies that received the awards.³³ The CPRIT grant was in addition to more than \$8 million Mr. Shanahan's firms had previously received from funds controlled by the governor's office.³⁴ As of October 2012, eight scientists had resigned from CPRIT, citing suspicions of political favoritism and systematic abuses in the grant process.³⁵

Shortly after the *Dallas Morning News* story was published, Travis County district attorney Rosemary Lehmberg (D) launched a criminal investigation into CPRIT's grant awards.³⁶ In April 2013, however, Ms. Lehmberg was arrested and pled guilty to a charge of driving while intoxicated.³⁷ Republican lawmakers called for Ms. Lehmberg to resign, and Gov. Perry announced that if she did not do so, he would veto approximately \$7.5 million in state funding for the Public Integrity Unit of the district attorney office.³⁸ The unit's high-profile probe into CPRIT is one of 400 pending cases and investigations. If she were to resign, Ms. Lehmberg, who was reelected to her second term in November 2012, would be replaced by a Perry appointee.³⁹ In June 2013, after Ms. Lehmberg refused to resign, Gov. Perry used a line-item veto to eliminate the unit's state funding.⁴⁰ Two state watchdog groups, Texans for Public Justice and Public Citizen, publicly criticized the governor's decision.⁴¹ Texans for Public Justice filed a criminal complaint alleging that Gov. Perry had violated state laws prohibiting coercion of officials.⁴²

³¹ <http://www.cprit.state.tx.us/funded-grants/>.

³² DMN Investigates: State's Cancer-Fighting Agency Funded Projects of Perry Campaign Contributor, *Dallas Morning News*, November 17, 2012.

³³ *Id.*

³⁴ Sue Goetinck, Texas Cancer-Fighting Agency Has Benefitted Perry, Dewhurst Donor, *Dallas Morning News*, November 19, 2012.

³⁵ 7 More Cancer Scientists Quit Texas Institute Over Grants, *Associated Press*, October 13, 2012.

³⁶ John A. Salazar, Public Integrity Unit Launches Criminal Investigation On CPRIT, *YNN*, December 12, 2012; James Drew, Travis County DA: "The CPRIT Investigation Is Ongoing and Aggressive", *Dallas Morning News*, January 23, 2013.

³⁷ Ciara O'Rourke, As Lehmberg Heads to Jail, New Details About Booking Emerge, *Austin American-Statesman*, April 19, 2013.

³⁸ Mike Ward, Perry Vetoes Ethics Unit Funding After Lehmberg Does Not Resign, *Austin American-Statesman*, June 14, 2013; Mike Ward, Perry Vetoes Funding of Lehmberg-Led Unit, *Austin American-Statesman*, June 15, 2013.

³⁹ *Id.*; Patrick George, Lehmberg Returns for Second Term as Travis DA, *Austin American-Statesman*, May 29, 2012; http://www.traviscountyclerk.org/ecclerk/content/images/election_results/2012.11.06/20121106tccume.pdf; Sam Womack, In Online Letter, Lehmberg Says She Won't Seek Re-Election, Will Seek 'Professional Help', *Austin American-Statesman*, April 27, 2013.

⁴⁰ Ward, *Austin American-Statesman*, June 14, 2013; Ward, *Austin American-Statesman*, June 15, 2013.

⁴¹ *Id.*

⁴² *Id.*

Harold Simmons and Waste Control Specialists

Harold Simmons, owner of Waste Control Specialists LLC, is Gov. Perry's second largest individual donor and has given more than \$1.2 million to the governor's campaigns since 2001. After the state legislature passed a 2003 law privatizing the formerly state-run radioactive waste program, two entities stocked with Gov. Perry's appointees — the Texas Commission on Environmental Quality (TCEQ) and the Texas Low-Level Radioactive Waste Disposal Compact Commission — granted Waste Control a series of controversial permits to build a radioactive waste dump in West Texas and import waste from at least 36 other states.⁴³ Mr. Simmons's company was granted an effective monopoly to dispose of the waste over the objections of environmentalists and TCEQ employees concerned the site threatened the Ogallala Aquifer, which provides water for drinking and agriculture from Texas to Nebraska.⁴⁴ At least three TCEQ employees resigned in protest and an executive director of TCEQ who advanced the case became a lobbyist for Waste Control Specialists a month after the first permit was approved.⁴⁵

HNTB

In 2009, HNTB, an engineering firm with ties to Gov. Perry, won a \$69 million state contract to help manage \$1.4 billion in hurricane disaster aid for nonhousing projects from the U.S. Department of Housing and Urban Development (HUD).⁴⁶ Because HNTB's contract was for professional services and not subject to a bid process, it is unclear exactly how HNTB was chosen.⁴⁷ Nevertheless, awarding a contract to a private firm with no experience managing community development funds to administer a community development block grant program, together with the state's poor project completion rate and lack of oversight, "present[ed] significant cause for concern" to HUD's Office of Inspector General, which audited the contract.⁴⁸ The 2012 HUD audit found Texas had improperly contracted with HNTB, and because Texas paid HNTB with federal funds, recommended the state pay back almost \$1.5 million and either provide evidence supporting or repay nearly \$8 million in overcharges billed by the firm.⁴⁹ The report also said the Texas Department of Rural Affairs (TDRA), the now-defunct agency that Gov. Perry dissolved after the HNTB contract was awarded, acted improperly when it more than doubled the size of the contract from \$69 million to \$144 million and expanded the scope of HNTB's work.⁵⁰ Auditors said the state was unable to explain how

⁴³ Asher Price, Importing Low-Level Radioactive Waste to Texas OK'd, *Austin American-Statesman*, January 4, 2011; Dave Montgomery, Has 'Crony Capitalism' Tainted Perry's Campaign for President?, *McClatchy Newspapers*, September 25, 2011; Peter Overby, Perry Donor's Radioactive Waste Site Deal Scrutinized, *All Things Considered*, September 15, 2011.

⁴⁴ Alison Fitzgerald, Perry's Texas Friends Find Donations Dovetail With Contracts, *Bloomberg*, August 31, 2011.

⁴⁵ *Id.*

⁴⁶ Brenda Bell, State Outsourced Allocation of Federal Disaster Recovery Funds to Firm with Ties to Perry, *Austin American-Statesman*, October 4, 2011.

⁴⁷ *Id.*

⁴⁸ *Id.*; U.S. Department of Housing and Urban Development Office of Inspector General, *Audit Report, 2012-FW-1005*, March 7, 2012.

⁴⁹ *Id.*; Becca Aaronson, Federal Audit Questions \$8 Million Paid to HNTB, *Texas Tribune*, March 9, 2012; Brenda Bell, Federal Audit Recommends Texas Pay Back Millions in Overcharges Billed by HNTB, *Austin American-Statesman*, March 11, 2012.

⁵⁰ *Id.*

HNTB got the contracts and could not show it had adequately monitored the firm and billings.⁵¹ While the state cancelled HNTB's original \$144 million contract after the firm spent nearly 85 percent of the money budgeted for overhead administrative expenses and only 15 percent of the project funds, HNTB continued to manage federal grants under a different contract.⁵²

According to an October 2011 report by Texans for Public Justice, HNTB's PAC and HNTB executives gave \$57,000 to Gov. Perry's campaigns between 2002 and 2009, and gave \$245,000 to the RGA beginning in 2008, when Gov. Perry assumed his leadership role with the group.⁵³ Ray Sullivan, a longtime aide and spokesperson for Gov. Perry's office and campaigns, was HNTB's top lobbyist in Texas from 2003 to 2009.⁵⁴ Just one month before HNTB won the 2009 contract, Mr. Sullivan became Gov. Perry's chief of staff and, later, his presidential campaign spokesman.⁵⁵

Revolving Door

According to a September 2011 analysis of state lobbying disclosure filings and staff records conducted by the *Huffington Post*, 40 of Gov. Perry's aides either registered as lobbyists after leaving the administration or moved from lobbying into the governor's inner circle, with some walking through the revolving door multiple times.⁵⁶ The *Huffington Post* found former Gov. Perry staffers made tens of millions of dollars in lobbying fees between 2001 and 2011.⁵⁷ At least five of Gov. Perry's closest presidential campaign aides were registered lobbyists, including his communications director, his spokesperson, and his political director.⁵⁸ As of September 2011, five out of eight of his gubernatorial chiefs of staff had been lobbyists.⁵⁹ Two former top-level staffers headed super PACs supporting Gov. Perry's 2011 presidential campaign while they were registered to lobby state government.⁶⁰

A January 2012 report by Texans for Public Justice highlighted the example of Mike Toomey, the governor's chief of staff from 2002 to 2004.⁶¹ Mr. Toomey's two years in the state job fell in between lobbying stints. The report found that 42 out of 105 of Mr. Toomey's lobbying clients together gave more than \$5.5 million to Gov. Perry's gubernatorial campaigns, or 5 percent of his total contributions, from 2001 to 2011.⁶² The time period includes Mr. Toomey's stretch as

⁵¹ *Id.*

⁵² *Audit Report, 2012-FW-1005*, Mar. 7, 2012; Brenda Bell, Texas Tightens Reins on HNTB, Which Was Hired to Manage U.S. Disaster Grants, *Austin American-Statesman*, February 6, 2012.

⁵³ Perry, HNTB Collect Windfalls From Hurricanes Dolly and Ike, Texans for Public Justice, October 6, 2011.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Paul Blumenthal, Rick Perry's Former Staffers Made Millions As Lobbyists, *Huffington Post*, September 16, 2011.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* See also Bill White Says Most of Gov. Rick Perry's Chiefs of Staff Have Been Lobbyists, *PolitiFact Texas*, August 14, 2010.

⁶⁰ Blumenthal, *Huffington Post*, Sept. 16, 2011.

⁶¹ Perry's Roomie Mike Toomey Mobilizes the Corporate Lobby to 'Make Us Great Again', Texans for Public Justice, January 2012.

⁶² Texans for Public Justice, Jan. 2012; Dan Eggen, The Influence Industry: Lobbyist's Clients, Perry Donors Overlap by \$5.5 Million, *Washington Post*, September 21, 2011.

chief of staff.⁶³ The report also found many of his clients have benefited from Gov. Perry's support.⁶⁴

Free Flights from Top Donors

In October 2011, the *New York Times* ran a story questioning whether Gov. Perry was properly reimbursing the costs of, and disclosing the travel dates of, flights connected to his presidential campaign.⁶⁵ Under current Federal Election Commission (FEC) guidelines, candidates must reimburse plane owners the amount it would cost to rent a similar plane for the same trip.⁶⁶ The newspaper reported Gov. Perry had instead been paying plane owners for the number of individual seats his campaign used, as permitted by a previous FEC regulation that had been changed in 2009.⁶⁷

Gov. Perry subsequently disclosed eight new travel-related campaign expenses totaling more than \$227,000.⁶⁸ These new disclosures included \$45,435 owed to a company owned by Dan Friedkin, one of Gov. Perry's biggest donors.⁶⁹ Gov. Perry appointed Mr. Friedkin to head the influential Texas Parks and Wildlife Commission in 2005 and reappointed him in 2011.⁷⁰ The new disclosures also showed \$22,931 owed to Brian Pardo, the owner of a company under investigation by the Securities and Exchange Commission and the Texas State Securities Board for account and disclosure practices.⁷¹

Texas law allows Gov. Perry to accept free flights, and the *Times* found that while governor, he accepted more than 200 such trips on the private planes of corporate executives and wealthy donors.⁷² While many of the trips revolved around campaign travel and other ceremonial or political events, some involved the governor's official functions.⁷³ The newspaper's analysis of Texas Ethics Commission records found Gov. Perry's free flights were worth \$1.3 million.⁷⁴ The Texas Ethics Commission does not require officials to charge these expenses to the state,

⁶³ Texans for Public Justice, Jan. 2012.

⁶⁴ *Id.*

⁶⁵ Richard A. Oppel, Jr. and Jim Rutenberg, Questions Raised Over Perry Campaign's Reimbursements for Use of Private Plane, *New York Times*, October 17, 2011.

⁶⁶ *Id.*

⁶⁷ *Id.*; Mark Maremont and Neil King Jr., Campaign to Pony Up for Flight Costs, *Wall Street Journal*, October 20, 2011.

⁶⁸ Tessa Muggeridge, Unraveling Perry's Air Travel Using FEC Disclosures, *Sunlight Foundation*, November 18, 2011.

⁶⁹ *Id.*; http://query.nictusa.com/pres/2011/Q3/C00500587/D_DEBTS_C00500587.html.

⁷⁰ *Id.*; Ryan Murphy and Jay Root, Despite Scrutiny, Perry Gives Two Donors Plum Posts, *Texas Tribune*, August 25, 2011.

⁷¹ Muggeridge, *Sunlight Foundation*, Nov. 18, 2011; http://query.nictusa.com/pres/2011/Q3/C00500587/D_DEBTS_C00500587.html.

⁷² Mike McIntire, For Perry, Private Jets Have Been Key to Public Job, *New York Times*, November 3, 2011.

⁷³ *Id.* CREW's 2010 report on governors raised similar questions. CREW highlighted Gov. Perry's use of poultry magnate Lonnie Pilgrim's private plane for trips to lobby for the interests of the plane's owner. For more information, see CREW's Worst Governors 2010, available at <http://www.citizensforethics.org/worstgovernors>.

⁷⁴ McIntire, *New York Times*, Nov. 3, 2011.

and while state law allows officials to count the cost of any flights as in-kind campaign donations, they are not required to reimburse plane owners.⁷⁵

SELF-ENRICHMENT

Used His Position to Benefit His Family

Gov. Perry's wife, Anita Perry, worked as a \$65,000-a-year contract fundraiser for the Texas Association Against Sexual Assault (TAASA) and raised roughly \$1.5 million for the organization between 2003 and 2011.⁷⁶ TAASA is also funded, in part, by grants from Texas state agencies, including the governor's office.⁷⁷

In September 2011, the *Austin American-Statesman* reported Anita Perry's salary at TAASA came indirectly from the governor's donors, state contractors, and companies with business with the state or issues before the legislature.⁷⁸ The newspaper found 34 out of TAASA's 37 major donors during Mrs. Perry's tenure had ties to the governor or state business.⁷⁹

According to the newspaper, the year before Mrs. Perry began raising money for the nonprofit, TAASA told the Internal Revenue Service it had received no donations of \$5,000 or more.⁸⁰ The year after hiring Mrs. Perry, the nonprofit reported receiving \$100,000 worth of donations of \$5,000 or more — all from Gov. Perry's donors, state contractors, or lobbyists.⁸¹ Between 2004 and 2009, more than 70 percent of TAASA's \$634,500 in large donations came from businesses or individuals with ties to the governor.⁸² Watchdogs have questioned whether the TAASA donations allow donors to curry favor with the governor while avoiding disclosure.⁸³ Both TAASA and the Perrys' spokeswoman said Mrs. Perry's work for the nonprofit did not constitute a conflict of interest.⁸⁴

State Salary and Pension Double Dip

In January 2011, Gov. Perry began taking advantage of an obscure provision in Texas law that allows him to "double-dip," collecting pension benefits from the Employees Retirement System of Texas while simultaneously drawing his \$150,000-a-year governor's salary from the state.⁸⁵ According to this law, Gov. Perry's combined years in military service, state service, and age qualify him for a retirement annuity of more than \$92,000 a year.⁸⁶ In addition, when he actually

⁷⁵ *Id.*

⁷⁶ Jay Root, Perry Reports Modest Income, and Losses, in 2010, *Texas Tribune*, October, 2011; Jacob Bernstein, Anita Perry's Political Baggage, *Daily Beast*, October 13, 2011.

⁷⁷ R.G. Ratcliffe, Anita Perry's Salary Comes Indirectly from Governor's Backers, *Austin American-Statesman*, September 14, 2011.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ Ratcliffe, *Austin American-Statesman*, Sept. 14, 2011.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Jay Root, Critics Question Perry's Move to Collect Pension, *Texas Tribune*, December 17, 2011.

⁸⁶ *Id.*

leaves office, he will be eligible to retire again with a higher pension as a member of an “elected class.”⁸⁷

Gov. Perry’s unusual retirement arrangement came to light in December 2011 after the governor filed federal personal financial disclosure forms required for his presidential bid.⁸⁸ According to the *Texas Tribune*, Gov. Perry sought and was granted two successive delays of his disclosure.⁸⁹ In June 2011, Gov. Perry signed a bill that makes it harder for public school teachers to engage in a similar practice by requiring public school teachers to have a 12-consecutive-month break in service after retirement before returning to draw a full-time salary as a state employee.⁹⁰

TRANSPARENCY

Financial Disclosure Reporting Violations

In 2011, the Texas Ethics Commission fined Gov. Perry \$1,500 for failing to report rental income from a house he owns in College Station in 2009 and 2010 and for not disclosing all of the debts related to the house or the names of banks holding the notes and leases.⁹¹ According to the ethics commission, the total of Gov. Perry’s undisclosed income was between \$7,000 and \$29,995.⁹²

Lack of Transparency

Gov. Perry’s office has a policy of deleting its e-mails every seven days, though the governor’s office is legally required to ensure that records dealing with state business are printed and preserved.⁹³ The seven-day policy predates Gov. Perry’s administration, but he has maintained it.⁹⁴ The policy makes it more difficult to determine the role the governor’s office plays in state affairs. For example, in 2007, reporters were unable to determine what and when Gov. Perry knew about systematic abuse inside juvenile jails, in large part because his office deleted e-mails long before the scandal broke.⁹⁵

Gov. Perry also does not disclose the details of his daily schedule or lists of guests who stay overnight at the governor’s mansion, records that have been made public by his predecessors.⁹⁶ According to the *Houston Chronicle*, Gov. Perry has appealed 100 requests filed under the Texas

⁸⁷ *Id.*

⁸⁸ Jay Root, Perry “Retires” to Boost Pension Pay, *Texas Tribune*, December 16, 2011.

⁸⁹ *Id.*; Jay Root, Perry Again Delays Required Personal Financial Report, *Texas Tribune*, October 26, 2011.

⁹⁰ Arlene Saenz and Rick Klein, Rick Perry ‘Retires’ Early To Collect Pension Benefits, *ABC News*, December 16, 2011; Dave Lieber, Retiree Double Dipping is Common in Fort Worth School District, *Fort Worth Star-Telegram*, January 15, 2012.

⁹¹ Reeve Hamilton, Perry Fined \$1,500 by Ethics Commission, *Texas Tribune*, March 23, 2011.

⁹² *Id.*

⁹³ Elise Hu, Perry’s Spare Schedule Feeds Transparency Concerns, *Texas Tribune*, August 23, 2010; Patricia Kilday Hart, Perry’s Long Tenure is Short on Particulars, *Houston Chronicle*, August 28, 2011.

⁹⁴ Hu, *Texas Tribune*, Aug. 23, 2010.

⁹⁵ *Id.*

⁹⁶ Kenneth P. Vogel and Ben Smith, Rick Perry’s Governing Style: Secrecy Over Straight Talk? *Politico*, September 15, 2010.

Public Information Act to the attorney general's office.⁹⁷ Most of these requests involved documents related to economic development funds TEF and TETF.⁹⁸ Records relating to the connections between these funds and Gov. Perry's donors and political appointees were among those withheld.⁹⁹

In 2011, Gov. Perry also pressed state lawmakers to add an amendment to a school finance bill to keep the details of the cost of his security team secret for 18 months, until after the 2012 presidential election.¹⁰⁰

PARTISAN POLITICS

Misusing State Resources for His Presidential Campaign

Although the use of state phones for campaign purposes is prohibited by state ethics rules, a review of phone records by the *Associated Press* found Gov. Perry used his governor's office phone in the months before he announced his bid for the presidency in August 2011 to call his big fundraisers and appointed state officials who owed him their jobs.¹⁰¹ There is no record of what Gov. Perry discussed on the calls, though a spokeswoman insisted the calls were about state business.¹⁰²

In addition, the *Dallas Morning News* reported that as of March 2012, the state Department of Public Safety had spent \$3.6 million on travel costs — for overtime pay, hotels, airfare, fuel and other expenses — incurred by security agents assigned to the governor and his family during the period he was seeking the GOP presidential nomination.¹⁰³ Critics called on Gov. Perry to use his presidential campaign funds to reimburse the state, but the governor has not done so.¹⁰⁴

Voter ID Law

In May 2011, Gov. Perry signed a voter ID bill into law.¹⁰⁵ The law, which Gov. Perry had prioritized, would require voters to present one of five kinds of photo identification in order to vote.¹⁰⁶ It could not immediately go into effect because, under Section 5 of the 1965 Voting Rights Act, Texas was legally required to get preclearance from the Department of Justice (DOJ) for changes in its election laws.¹⁰⁷ In January 2012, after the voter ID law had been under DOJ review for six months, Texas Attorney General Greg Abbott filed suit against the DOJ asking the

⁹⁷ Hart, *Houston Chronicle*, Aug. 28, 2011.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ Patricia Kilday Hart, Cost of Perry's Travel Security Team will be Secret for 18 Months, *My San Antonio*, June 29, 2011.

¹⁰¹ Before Announcing, Rick Perry Used Work Phone to Call Donors, *Associated Press*, December 6, 2011. *See also* Jonathan Lemire, Rick Perry Inappropriately Used Texas State Phones for White House Campaigning: Report, *New York Daily News*, December 6, 2011.

¹⁰² *Associated Press*, Dec. 6, 2011.

¹⁰³ Will Weissert, Taxpayer Tab for Perry Presidential Run Tops \$3.6M, *Dallas Morning News*, March 30, 2012.

¹⁰⁴ Peggy Fikac, Larson Targets Out-of-State Security Costs, *My San Antonio*, December 17, 2012.

¹⁰⁵ Daniel Setiawan, After Six-Year Fight, Perry Signs Voter ID into Law, *Texas Observer*, May 27, 2011.

¹⁰⁶ *Id.*

¹⁰⁷ Chuck Lindell, Texas Sues Feds Over Voter ID Law, *Austin American-Statesman*, January 23, 2012.

federal court to intervene and approve the law.¹⁰⁸ In March 2012, the DOJ blocked the voter ID law, saying it would disproportionately harm Hispanic voters, and in August 2012, a panel of three federal judges of the U.S. District Court for the District of Columbia unanimously struck it down.¹⁰⁹ The judges called the Texas voter ID law the most stringent in the country and said it would disproportionately affect poor and minority voters.¹¹⁰ Gov. Perry publicly criticized and vowed to appeal the court's decision.¹¹¹ As a result of the Supreme Court's decision in *Shelby v. Holder*, however, preclearance is no longer required and the law can take effect.¹¹² Gov. Perry praised the decision and Mr. Abbott announced the law "will take effect immediately."¹¹³

Dark Money Bill Veto

In May 2013, Gov. Perry issued a veto effectively killing a measure that would have required politically active nonprofits that are tax-exempt under section 501(c)(4) of the tax code to disclose their donors.¹¹⁴ Lawmakers in the GOP-dominated Texas Senate and House passed the "dark money" bill despite fierce opposition from far-right activists and criticism that it exempted labor unions.¹¹⁵ In a statement released in response to Gov. Perry's veto, the bill's author, state Sen. Kel Seliger (R), said: "This is a sad day for integrity and transparency in Texas. Gov. Perry's veto of SB 346 legalizes money laundering in Texas elections."¹¹⁶

¹⁰⁸ *Id.*

¹⁰⁹ Sari Horwitz, Justice Department Bars Texas Voter ID Law, *Washington Post*, March 12, 2012; Charlie Savage and Manny Fernandez, Court Blocks Texas Voter ID Law, Citing Racial Impact, *New York Times*, August 30, 2012.

¹¹⁰ Savage and Fernandez, *New York Times*, Aug. 30, 2012.

¹¹¹ Press Release, Office of Gov. Rick Perry, Statement by Gov. Perry on Court's Decision to Deny Texas Voter ID Law, August 30, 2012; Lucy Madison, Rick Perry: We'll Take Voter ID Case to Supreme Court, *CBS News*, March 16, 2012.

¹¹² Adam Liptak, Supreme Court Invalidates Key Part of Voting Rights Act, *New York Times*, June 25, 2013.

¹¹³ Sarah Ferris, Texas Revives Voter ID Law in Wake of Supreme Court Decision, Opponents Pledge to Keep Up Fight, *Houston Chronicle*, June 25, 2013.

¹¹⁴ Emily Ramshaw, Perry Vetoes "Dark Money" Bill, *Texas Tribune*, May 25, 2013.

¹¹⁵ *Id.*

¹¹⁶ Press Release, Office of Texas State Senator Kel Seliger, Statement by Senator Seliger on Governor Rick Perry Veto of SB 346, May 25, 2013.

RICK SCOTT

Gov. Rick Scott (R-FL) was elected in 2010 and is running for re-election in 2014. His inclusion stems from: (1) using his office to benefit his company; (2) using his office to promote donors' interests; (3) appointing campaign contributors to official positions; (4) privatizing a state-run insurance company to benefit his donors; (5) concealing e-mail he had promised to make public; and (6) accusations of voter disenfranchisement.

SELF-ENRICHMENT

Solantic

While campaigning for office, then-candidate Scott disclosed a \$62 million ownership stake in Solantic, Inc., a chain of Florida urgent care and emergency service clinics he co-founded in 2001.¹ Gov. Scott's ownership of the company raised a number of conflict-of-interest questions because Solantic is subject to regulation by state agencies.² In addition, during the campaign, a former Solantic employee filed a complaint accusing the company of overcharging Medicare and committing other violations.³

The governor said Solantic would not enter into contracts with the state while he was governor and had ties to the company.⁴ After lawyers from Gov. Scott's transition team met privately with the state ethics commission and before taking office, Gov. Scott reportedly transferred his ownership stake in Solantic to his wife's revocable trust.⁵ Under Florida law, Gov. Scott then did not have to report the Solantic stake as an asset on his disclosure of financial interests.⁶ In addition, there are no laws prohibiting the governor or other elected officials from pushing policies benefitting the business interests of family members.⁷

In 2011, two Florida residents filed separate complaints with the state Commission on Ethics claiming the governor had used his position to benefit Solantic.⁸ Both were thrown out by the ethics commission, which said the complaints lacked sufficient evidence to launch an investigation.⁹

¹ Stacey Singer, Gov. Scott Shifting Clinics to His Wife Raises Conflict of Interest Questions, *Palm Beach Post*, March 12, 2011; Stacey Singer, Gov. Rick Scott's Drug Testing Policy Stirs Suspicion, *Palm Beach Post*, March 30, 2011.

² *Id.*

³ Stacey Singer, Medicare Fraud Investigators Were Directed to Rick Scott's Solantic During His Campaign, Records Show, *Palm Beach Post*, July 11, 2011.

⁴ Gov. Rick Scott: Solantic Won't Contract with Florida, *Associated Press*, April 5, 2011.

⁵ *Id.*; Singer, *Palm Beach Post*, Mar. 12, 2011; Suzy Khimm, Rick Scott's Medicaid Overhaul to Benefit...Rick Scott?, *Mother Jones*, March 25, 2011.

⁶ *Id.*

⁷ Kris Hundley, Gov. Rick Scott, Solantic and Conflict of Interest: What's the Deal?, *Tampa Bay Times*, April 1, 2011.

⁸ Michael C. Bender, Ethics Complaint Filed Against Gov. Rick Scott, *Tampa Bay Times*, April 11, 2011; Florida Ethics Panel Rejects Solantic Complaints Against Gov. Rick Scott, *Associated Press*, May 18, 2011.

⁹ *Id.*

In April 2011, days after the first ethics complaint was filed, Gov. Scott said he would sell his ownership stake in Solantic.¹⁰ In June 2011, Gov. Scott reportedly sold his share of the company to Solantic's minority shareholder, private equity firm Welsh, Carson, Anderson & Stowe, for an undisclosed sum.¹¹

Drug Testing Program

In March 2011, shortly after taking office, Gov. Scott signed an executive order mandating drug testing for all newly hired state employees.¹² In addition, he required random drug tests for workers at state agencies whose directors are appointed by the governor.¹³ In May 2011, Gov. Scott signed a bill requiring drug testing for all of the state's welfare recipients.¹⁴

Drug testing is one of Solantic's most popular services, and critics said the company seemed poised to benefit from the new policies.¹⁵ The state required all welfare applicants to pay for their own drug tests, though it reimbursed those who passed.¹⁶ In October, a court issued an injunction halting the drug testing of welfare recipients, saying it violated the Fourth Amendment of the Constitution.¹⁷ Florida officials had said the drug testing would save the state money, but fewer than 3 percent of the recipients tested failed.¹⁸ Because of that, the state paid \$118,140 in reimbursements for the tests while welfare payments to those who failed would have cost only \$45,780.¹⁹

The American Civil Liberties Union and the American Federation of State, County and Municipal Employees filed a lawsuit challenging Gov. Scott's drug testing requirement for state workers.²⁰ The governor suspended his order after the lawsuit was filed, and in April 2012, a U.S. district court judge ruled the requirement unconstitutional.²¹

¹⁰ John Kennedy and Stacey Singer, Scott Says Selling Solantic 'Right Thing to Do'; Dems Want Disclosure of All Assets, *Palm Beach Post*, April 14, 2011.

¹¹ *Id.*; Lloyd Dunkelberger, Solantic, Rick Scott's Former Company, Moving Headquarters Out of Florida, *Herald Tribune*, November 2, 2011.

¹² Tom Brown, Florida Judge Blocks Drug Tests for State Workers, *Reuters*, April 26, 2012; David Royse, Florida Gov. Rick Scott Orders Random Drug Testing of State Employees, *Orlando Sentinel*, March 22, 2011.

¹³ *Id.*

¹⁴ Aliyah Shahid, Florida Governor Rick Scott Signs Law Requiring Welfare Recipients to Take Drug Test, *ACLU Objects*, *New York Daily News*, June 1, 2011.

¹⁵ Singer, *Palm Beach Post*, Mar. 30, 2011.

¹⁶ Shahid, *New York Daily News*, June 1, 2011.

¹⁷ Arthur Delaney, Rick Scott Drug Testing Executive Order Ruled Unconstitutional by Federal Judge, *Huffington Post*, April 26, 2012.

¹⁸ Brittany Alana Davis, Florida's Welfare Drug Tests Cost More Money Than State Saves, Data Shows, *Miami Herald*, April 20, 2012; Lizette Alvarez, No Savings are Found from Welfare Drug Tests, *New York Times*, April 17, 2012.

¹⁹ Singer, *Palm Beach Post*, Mar. 30, 2011.

²⁰ Delaney, *Huffington Post*, Apr. 26, 2012; Dara Kam, Gov. Scott's State Worker Drug Testing Unconstitutional, Federal Judge Rules, *Palm Beach Post*, April 26, 2012.

²¹ Delaney, *Huffington Post*, Apr. 26, 2012.

Medicaid Privatization Plan

In 2005, the federal government approved a pilot program which allowed certain Medicaid recipients in Florida to use Medicaid funds at private clinics such as Solantic.²² In 2011, Gov. Scott began pushing the legislature to pass a sweeping Medicaid reform bill to expand the pilot program to every Medicaid patient in Florida.²³ The law would give health management organizations and private health care companies much greater control over the program.²⁴ In order for Florida to take additional advantage of the program, which could potentially bring new business to Solantic, the state needed to get a waiver from the federal government.²⁵

As of 2011, Solantic accepted traditional Medicaid at only one location but accepted with several private Medicaid plans at all locations.²⁶ The *Tampa Bay Times* reported that Gov. Scott's Medicaid privatization plan "would dramatically increase Solantic's potential patient base."²⁷

In February 2013, the Obama administration approved a second Medicaid waiver that tentatively allowed the governor's privatization plan to go into effect.²⁸ Hours after the federal government granted Florida the privatization waiver, Gov. Scott announced the state would expand Medicaid under President Obama's Affordable Care Act (ACA), a move he had previously opposed.²⁹

CRONYISM

Prison Privatization Plan

Gov. Scott has used his office to push for prison privatization policies that would benefit private prison companies, which have donated to his inaugural fund and campaigns.³⁰ GEO Group, the second-largest private prison company in the U.S., is based in Boca Raton, Fla.³¹ The company runs the state's largest private prison, the Blackwater River Correctional Facility.³² Geo Group's largest competitor, Corrections Corporation of America (CCA), also does business with the state.³³

²² Khimm, *Mother Jones*, Mar. 25, 2011.

²³ *Id.*

²⁴ *Id.*

²⁵ Hundley, *Tampa Bay Times*, Apr. 1, 2011; Khimm, *Mother Jones*, Mar. 25, 2011.

²⁶ Hundley, *Tampa Bay Times*, Apr. 1, 2011.

²⁷ *Id.*

²⁸ Jim Turner, *Florida Wins Second Medicaid Waiver*, *Sunshine State News*, February 20, 2013.

²⁹ Jason Millman, *Gov. Rick Scott Embraces Medicaid Expansion in Florida*, *Politico*, February 20, 2013; Tia Mitchell, *Gov. Rick Scott's 'New Perspective': Expand Medicaid After All*, *Tampa Bay Times*, February 20, 2013.

³⁰ *Privatizing Prisons Could Prove Profitable to Politically Connected Companies*, *McClatchy News Service*, April 5, 2011; Alex Seitz-Wald, *Is Gov. Rick Scott Rewarding Donors with Private Prison Plan?*, *Think Progress*, May 5, 2011.

³¹ *Privatizing Prisons Could Prove Profitable to Politically Connected Companies*, *McClatchy News Service*, April 5, 2011.

³² *Id.*

³³ *McClatchy News Service*, April 5, 2011; Steve Bousquet, *Bidding Begins to Privatize Prisons in South Florida*, *Miami Herald*, July 25, 2011.

Gov. Scott reportedly has close ties to Brian Ballard, a lobbyist who has worked for both companies.³⁴ Mr. Ballard and his wife, Kathryn, each contributed \$500 to Gov. Scott's 2010 campaign.³⁵ More significantly, Mr. Ballard helped raise \$3 million for Gov. Scott's inaugural celebration committee.³⁶ In 2011, the governor watched the Super Bowl at Mr. Ballard's Tallahassee home.³⁷

GEO Group contributed \$25,000, the maximum amount, to the governor's inauguration.³⁸ CCA gave \$5,000 to Gov. Scott's inaugural fund.³⁹ In April 2012, GEO Group made a \$100,000 contribution to the Let's Get to Work Political Action Committee (PAC), which supports Gov. Scott.⁴⁰ CCA made a \$25,000 contribution to the PAC in March 2013.⁴¹

During his 2010 campaign, Gov. Scott promised to cut the state's prison costs by \$1 billion.⁴² In 2011, Gov. Scott and the legislature inserted a provision into the budget bill setting a deadline of January 1, 2012 to privatize 30 prisons and other facilities in South Florida, and announced the state would hire a single company to take over those operations.⁴³ This set up a bidding war between GEO Group and CCA.⁴⁴

Florida's Police Benevolent Association, a union that represents prison guards likely to be affected by the law, filed a lawsuit against Gov. Scott's administration claiming the plan was unconstitutional because it circumvented the legislative process.⁴⁵ In September 2011, a state judge ruled that inserting the plan into the budget was unconstitutional because it avoided an up-or-down vote in the legislature.⁴⁶

The same month, the International Brotherhood of Teamsters filed a complaint with the Florida Commission on Ethics alleging Gov. Scott pushed prison privatization in exchange for political

³⁴ Seitz-Wald, *Think Progress*, May 5, 2011.

³⁵ Follow the Money, Contributions Lookup: Scott, Richard L. and Carroll, Jennifer, 2009-2010; <http://ballard-partners.com/team.shtml>.

³⁶ Seitz-Wald, *Think Progress*, May 5, 2011.

³⁷ Marc Caputo, Brian Ballard's Super Bowl Guest, *Tampa Bay Times*, February 8, 2011; Seitz-Wald, *Think Progress*, May 5, 2011.

³⁸ *Id.*; *McClatchy News Service*, Apr. 5, 2011.

³⁹ Seitz-Wald, *Think Progress*, May 5, 2011; Dara Kam, Teamsters Accuse Gov. Scott of Conflict of Interest in Privatization of Florida Prisons, *Palm Beach Post*, September 14, 2011.

⁴⁰ Florida Department of State, Division of Elections, Campaign Contributions Lookup, Let's Get to Work, 2010-Present.

⁴¹ *Id.*

⁴² Tonya Alanez, Scott Pushes for State Prison Privatization, *Orlando Sentinel*, February 14, 2011.

⁴³ Bill Kaczor, Florida Prison Privatization Decision Appealed, *Associated Press*, October 31, 2011; Bousquet, *Miami Herald*, July 25, 2011.

⁴⁴ *Id.*

⁴⁵ Chris Kirkham, Florida Prisons Bill Would Expand Private Management, Netting a Big Win for Political Contributors, *Huffington Post*, February 1, 2012.

⁴⁶ Kaczor, *Associated Press*, Oct. 31, 2011.

contributions.⁴⁷ The commission rejected the complaint in October 2011, saying the governor's actions did not amount to a quid pro quo.⁴⁸

In February 2012, Gov. Scott made a second attempt at winning legislative approval for his privatization plan, but it was voted down in the state Senate.⁴⁹ The result was a significant defeat for GEO, which decided to seek prison expansion outside of Florida.⁵⁰ Gov. Scott and the state Department of Corrections are now seeking to privatize the state's work release centers.⁵¹

Rewarding Donors

In an August 2012 *Orlando Sentinel* story, Dave Gordon, president of ETS, an Orlando-based aviation-logistics company, claimed a Republican fundraiser told him to donate \$10,000 to Gov. Scott's Let's Get To Work PAC if he wanted to be appointed to Orlando International Airport's board of directors.⁵² Mr. Gordon refused to make a donation, and was not appointed to a position on the board.⁵³ Gov. Scott appointed two new members, Dean Asher and Domingo Sanchez, who donate to Republicans, and re-appointed an existing member, Jim Palmer, less than two weeks after he donated \$25,000 to the Let's Get to Work PAC.⁵⁴ Mr. Asher, Mr. Sanchez, and Mr. Palmer all said they were not told their appointments were contingent on donations.⁵⁵ Another member who sought reappointment, Jose Colon, who made no campaign contributions, also lost his seat.⁵⁶

Insurance Deal

In May 2013, Gov. Scott signed a bill aimed at reforming the state-run Citizens Property Insurance Corp.⁵⁷ The bill mandated the transfer of thousands of policyholders to Heritage Property and Casualty Insurance Co., a privately held startup insurance company based in St. Petersburg, Fla.⁵⁸

⁴⁷ Michael C. Bender, Teamsters File Ethics Complaint Against Gov. Rick Scott over Prisons, *Tampa Bay Times*, September 14, 2011.

⁴⁸ Jim Turner, Teamsters Fail in Ethics Claim Against Rick Scott; 'Pay-to-Play' Rejected, *Sunshine State News*, October 27, 2011.

⁴⁹ Michael C. Bender, Florida Senate Blocks Largest U.S. Private-Prison Plan Dealing GEO Setback, *Bloomberg*, February 15, 2012.

⁵⁰ *Id.*

⁵¹ Steve Bosquet, Gov. Rick Scott Presses for Prison Privatization, *Miami Herald*, July 2, 2012; Kameel Stanley and Curtis Krueger, State Hopes to Privatize More Work Release Centers, *Tampa Bay Times*, June 22, 2013.

⁵² Dan Tracy, Executive Says He Didn't Get Airport Post After Refusing to Give to GOP, *Orlando Sentinel*, August 17, 2012.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Tracy, *Orlando Sentinel*, Aug. 17, 2012.

⁵⁷ Toluse Olorunnipa, After Big Donations to Gov. Scott, Insurance Company May Reap \$52M, *Tampa Bay Times*, May 21, 2013; Editorial, Citizens Property Insurance: Scott's Stormy Policy, *The Ledger (Lakeland, FL)*, June 8, 2013.

⁵⁸ Olorunnipa, *Tampa Bay Times*, May 21, 2013.

The unusual move was billed as a way to reduce Citizens' policyholder burden before the upcoming hurricane season, but it also produced a massive windfall for Heritage.⁵⁹ Heritage received \$52 million for taking over 60,000 Citizens policies.⁶⁰ The deal was structured as a backdated reinsurance agreement in which Heritage was paid to cover Citizens' losses from policies dating back to January.⁶¹ Heritage, however, was able to pick and choose which policies it wanted to absorb, allowing it to select policies that had no claims pending with Citizens.⁶² That eliminated most of the risk for Heritage.⁶³

Heritage was founded only nine months before the bill passed, but a number of Heritage employees have been financial supporters of Gov. Scott's re-election campaign.⁶⁴ In March 2013, employees of Heritage and its affiliated companies contributed \$110,000 to a PAC controlled by Gov. Scott.⁶⁵ They also gave more than \$40,000 to the Republican Party of Florida.⁶⁶

Gov. Scott's chief of staff, Adam Hollingsworth, downplayed the administration's role in brokering the deal and said it was "outrageous" to suggest that the governor's office influenced Citizens' board members into approving the transaction.⁶⁷

E-mails from the Scott administration, however, show that the governor's office did know about the Citizens deal with Heritage before it went through.⁶⁸ A spokeswoman for Gov. Scott later confirmed that representatives from Heritage met with Gov. Scott's office in January.⁶⁹ In addition, according to documents obtained by the *Associated Press*, an administration official met with a Heritage lobbyist in March 2013, roughly two months prior to the deal's completion.⁷⁰ Gov. Scott's deputy chief of staff, Michael Sevi, met with Heritage lobbyist Fred Karlinsky to discuss the pending deal with Citizens.⁷¹ Other state officials, such as Jeff Atwater, the state's chief financial officer, also knew about the plan.⁷² Nonetheless, a spokesman for the governor said the administration did not take a position on the deal before the Citizens board voted on it.⁷³

⁵⁹ *Id.*

⁶⁰ *Id.*; Editorial, *The Ledger (Lakeland, FL)*, June 8, 2013.

⁶¹ *Id.*; Gary Fineout, Florida Governor Rick Scott, Others, Knew in Advance About Citizens Property Insurance Deal, *Associated Press*, June 14, 2013.

⁶² Olorunnipa, *Tampa Bay Times*, May 21, 2013

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ *Id.*; Fineout, *Associated Press*, June 14, 2013.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ Fineout, *Associated Press*, June 14, 2013.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ Fineout, *Associated Press*, June 14, 2013.

The transaction caused a great deal of controversy in Florida. The state's Senate President Don Gaetz (R) called for an investigation into the Heritage-Citizens transaction to make sure it was "in the best of interest of Floridians."⁷⁴

TRANSPARENCY

Project Sunburst

In May 2012, Gov. Scott announced he would post his official e-mails and those of several staff members to a website known as Project Sunburst.⁷⁵ The governor directed reporters to use the Sunburst e-mails in place of public records requests for his e-mail.⁷⁶ In July 2012, however, reporters began pressing the Scott administration about the remarkably high percentage of e-mails favoring Gov. Scott's policies.⁷⁷ The Scott administration then acknowledged the website did not include e-mails sent to the governor's main official account.⁷⁸ Rather, it included e-mail from a separate, lesser-known state e-mail address for Gov. Scott.⁷⁹ The second e-mail address was not posted on state websites, but rather had appeared on Tea Party websites and mainly was used by the governor's supporters.⁸⁰ Transparency and good government groups that had praised Gov. Scott for Project Sunburst said they had not realized e-mails to the governor's official state account would not be posted to the site, and accused the Scott administration of promoting misinformation and "what has essentially been a propaganda machine."⁸¹ In response to the criticism, the Scott administration announced it would phase out the unofficial e-mail address and add all e-mails sent to the governor's official account to Project Sunburst.⁸² Even after the governor's official e-mails were added to the site, however, transparency advocates said there was little of interest, and Gov. Scott and some of his top aides said they did not use e-mail as a primary form of communication.⁸³

PARTISAN POLITICS

Disenfranchising voters

Voter Purge

Shortly after his election, Gov. Scott asked then-Florida Secretary of State Kurt Browning how the state verified the citizenship of voters.⁸⁴ Mr. Browning said there was no method in place for

⁷⁴ *Id.*; <http://www.flsenate.gov/Senators/s1>.

⁷⁵ Lloyd Dunkelberger, *Scott's Emails Will Go on the Web*, *Herald Tribune*, May 4, 2012.

⁷⁶ Toluse Olorunnipa, *Gov. Scott's Emails Go to Unknown Account*, *Bradenton Herald*, July 30, 2012.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ Olorunnipa, *Bradenton Herald*, July 30, 2012.

⁸¹ Brent Kallestad, *Scott's Emails Not Included in Public Release*, *Associated Press*, July 31, 2012.

⁸² Olorunnipa, *Bradenton Herald*, July 30, 2012.

⁸³ Steve Bousquet, *Florida's Email Transparency Effort Project Sunburst Fails to End State Secrecy*, *Miami Herald*, November 29, 2012.

⁸⁴ Marc Caputo, *How Rick Scott's Noncitizen Voter Purge Started Small and Then Blew Up*, *Miami Herald*, June 12, 2012.

determining citizenship.⁸⁵ Gov. Scott reportedly responded, “Well, people lie.”⁸⁶ In the wake of the conversation, elections officials began looking into the citizenship status of voters.⁸⁷

Elections workers eventually generated a list of more than 2,600 questionable voters, but then-Secretary Browning said he was concerned about its accuracy and decided against releasing it.⁸⁸ In spring 2012, however, his successor, Secretary of State Ken Detzner, under pressure from Republicans in the wake of a news report that found noncitizens registered in Lee County, decided to go ahead.⁸⁹ The list was dominated by minority voters from South Florida.⁹⁰ The state sent the information to Florida’s county election supervisors.⁹¹

A May 2012 *Miami Herald* analysis of elections records found that Latino, Democratic and independent voters were the most likely to be targeted.⁹² For example, Hispanics make up 58 percent of the list but just 13 percent of eligible voters.⁹³ White voters and Republicans were disproportionately the least likely to have been removed.⁹⁴

The Department of Justice (DOJ) said the state’s efforts violated the Voting Rights Act and the National Voter Registration Act, and ordered state election officials to suspend the further removal of voters.⁹⁵ State officials refused to comply.⁹⁶

In June 2012, several county elections officials said they believed the state’s information was inaccurate, and they would stop searching for illegally registered voters.⁹⁷ The state then requested data from the Department of Homeland Security, eventually suing for access to it.⁹⁸ Several voter advocate groups and the DOJ sued the State of Florida, claiming the purge unfairly discriminated against minorities.⁹⁹ In September 2012, the state reached a settlement with the voter advocate groups and acknowledged most of the initial list was made up of eligible voters.¹⁰⁰

Despite the errors, in September 2012, 41 days before Election Day, Gov. Scott began another push to purge voters.¹⁰¹ State officials released a list of 198 people they believed ineligible that

⁸⁵ Gary Fineout, Gov. Scott Started Push to Remove Voters from Rolls, *Associated Press*, May 22, 2012.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Marc Caputo, Patricia Mazzei and Steve Bousquet, Fla. Gov. Rick Scott’s Voter Purge Efforts Start Anew, *Tampa Bay Times*, September 26, 2012; Caputo, *Miami Herald*, June 12, 2012.

⁹⁰ Caputo, Mazzei and Bousquet, *Tampa Bay Times*, Sept. 26, 2012.

⁹¹ *Id.*

⁹² Marc Caputo and Patricia Mazzei, Hispanics, Democrats Biggest Groups on Florida’s List of Potential Noncitizen Voters, Analysis Shows, *Tampa Bay Times*, May 12, 2012.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ Caputo, Mazzei and Bousquet, *Tampa Bay Times*, Sept. 26, 2012; Dara Kam, Florida Voter Purge Gets Pushback from Elections Supervisors, U.S. Justice, *Palm Beach Post*, June 1, 2012.

⁹⁶ *Id.*

⁹⁷ Kam, *Palm Beach Post*, June 1, 2012.

⁹⁸ Caputo, Mazzei and Bousquet, *Tampa Bay Times*, Sept. 26, 2012.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

had been compiled from the federal data.¹⁰² Gov. Scott said “We are doing absolutely the right thing. We believe in honest, fair elections.”¹⁰³ Voter advocates again questioned the governor’s intentions, noting Florida’s status as a hotly-contested swing state and historically thin victory margins in presidential elections.¹⁰⁴ In October 2012, a judge ruled the state’s purge could continue, and 39 voters were ultimately removed from Florida rolls.¹⁰⁵

Early Voting

In 2011, Gov. Scott signed a bill reducing early voting days in Florida from 14 days to eight.¹⁰⁶ The law designated only two Saturdays and one Sunday for early voting and eliminated early voting on the Sunday prior to Election Day, which was a popular time for minorities to vote in 2008.¹⁰⁷ Despite reports of extremely long early voting lines, Gov. Scott refused to expand early voting before the election.¹⁰⁸ The new law was widely seen as a significant reason for the extraordinarily long waits many Florida voters suffered on Election Day.¹⁰⁹ Some voters in urban areas waited more than eight hours, and some polling places were forced to stay open late into the night.¹¹⁰ In the wake of the disastrous 2012 election, the legislature passed a bill restoring early voting hours and reversing other changes.¹¹¹ Gov. Scott signed the bill in May 2013.¹¹²

¹⁰² Caputo, Mazzei and Bousquet, *Tampa Bay Times*, Sept. 26, 2012.

¹⁰³ *Id.*

¹⁰⁴ *Id.*

¹⁰⁵ Patricia Mazzei, Judge: Florida Voter Purge Can Go On, *Miami Herald*, October 4, 2012; Scott Maxwell, Voting Fraud? Politicians are the Real Frauds, *Orlando Sentinel*, October 31, 2012.

¹⁰⁶ Matt Dixon, Gov. Rick Scott Signs Election Bill that Cuts Early-Voting Days, *Florida Times-Union*, May 19, 2011; Rachel Weiner, Florida Early Voting Cuts Survive, *Washington Post*, September 24, 2012; *Elections*, HB 1355, Florida Legislature, May 19, 2011, available at <http://www.flsenate.gov/Session/Bill/2011/1355/BillText/er/HTML>.

¹⁰⁷ *Id.*

¹⁰⁸ Joey Francilus, 3.4 Million Early Ballots Cast in Florida Already; Rick Scott Declines Extra Hours, *Huffington Post*, November 2, 2012; Mary Ellen Klas, Scott Signs Election Flaws Fix Earlier Than Expected, *Bradenton Herald*, May 22, 2013.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Klas, *Bradenton Herald*, May 22, 2013.

SCOTT WALKER

Gov. Scott Walker (R-WI) was elected in 2010 and won a recall election in 2012. He is running for re-election in 2014. His inclusion stems from: (1) using his office to promote donors' interests; (2) illegally using state troopers to track down his political opponents; (3) an investigation into illegal activity by his aides; (4) diverting money from a nationwide mortgage settlement; (5) an investigation into the state economic development corporation he chairs; (6) dismissing a political appointee for signing the recall petition against him; and (7) advocating for new voter identification restrictions.

CRONYISM

Promoting Donors' Interests

Shortly after Gov. Walker took office in 2011, he proposed legislation that would supposedly fix Wisconsin's \$137 million dollar budget gap.¹ The bill, however, was designed to strip certain public-sector employees of their collective bargaining rights and deny them some compensation and benefits.² Democrats said the bill was not a sincere effort to reduce the deficit, but rather a calculated effort to break the unions.³ Within days, the governor's proposal sparked a sharp backlash among thousands of Wisconsin's teachers and other public-sector union members who flooded into Madison's Capitol rotunda to protest the measure.⁴

Opponents raised questions about whether Gov. Walker was attempting to carry out the anti-union agenda of Koch Industries, the family corporation of anti-union billionaires Charles and David Koch. Koch Industries had contributed \$43,000 to Gov. Walker's campaign.⁵ Koch Industries owns a coal company subsidiary, timber plants, and a network of pipelines in Wisconsin.⁶ The Koch Industries Political Action Committee gave \$1 million to the Republican Governors Association, which spent almost \$65,000 on independent expenditures backing Gov. Walker and spent more than \$3 million on ads and mailers attacking his opponent.⁷

In February 2011, at the height of the protests, Gov. Walker received a phone call from a blogger impersonating David Koch.⁸ During the call, Gov. Walker said he had considered planting "troublemakers" among the protesters but ultimately decided against it.⁹ At that point, a group of Senate Democrats had left the state to prevent Republicans from having a quorum to

¹ Andy Kroll, What's Happening in Wisconsin Explained, *Mother Jones*, March 17, 2011.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Andy Kroll, Wisconsin Gov. Scott Walker: Funded by the Koch Bros., *Mother Jones*, February 18, 2011; Rick Ungar, Koch Brothers Behind Wisconsin Effort to Kill Public Unions, *Forbes*, February 18, 2011; Follow the Money, Contributions Lookup, Friends of Scott Walker, 2009–2010.

⁶ *Id.*

⁷ Kroll, *Mother Jones*, Feb. 18, 2011.

⁸ A.G. Sulzberger, Walker Receives Prank Call from Koch Impersonator, *New York Times*, February 23, 2011; <http://www.youtube.com/watch?v=Z3a2pYGr7-k&lr=1>.

⁹ *Id.*

vote on Gov. Walker's bill.¹⁰ The governor also said he would try to lure the wayward Senate Democrats back to Madison under false pretenses and then immediately declare a quorum to vote on the bill.¹¹ At the end of the call, the blogger posing as Mr. Koch said, "once you crush these bastards, Scott, I'll fly you out to Cali[ifornia] and really show you a good time."¹² Gov. Walker thanked him for his support.¹³ The call raised further questions about the relationship between Gov. Walker and the Kochs.¹⁴

PRESSURING PUBLIC OFFICIALS

Illegally Using State Troopers

On February 17, 2011, 14 Senate Democrats fled across the state line to Illinois to avoid granting Republicans a quorum to vote on Gov. Walker's bill.¹⁵ A day later, Wisconsin Senate Majority Leader Scott Fitzgerald (R) asked the Wisconsin State Patrol (WSP) to locate Senate Leader Matt Miller (D) after he and other Democratic senators left the state.¹⁶ Gov. Walker agreed to dispatch the officers.¹⁷

Troopers were also dispatched to all of the senators' homes on the morning of February 24 at the request of Sen. Fitzgerald.¹⁸ He said the decision to send the troopers was made because he had heard reports that at least some senators had been spending the nights at their homes and driving to Illinois each morning.¹⁹ Senate Majority Leader Fitzgerald said he asked Gov. Walker to send troopers to the lawmakers' homes to send a message.²⁰ Video of a state trooper and another man, Senate Sergeant at Arms Ted Blazel, arriving and knocking on the door of Sen. Miller's home is available on the Internet.²¹ In addition, Sen. Tim Cullen (D) said troopers visited his home on two different occasions.²² At one point, Sen. Cullen said his wife and three-year-old granddaughter arrived at his home to find troopers blocking the driveway.²³

¹⁰ Bill Glauber, Jason Stein, and Patrick Marley, Democrats Flee State to Avoid Vote on Budget Bill, *Milwaukee Journal Sentinel*, February 17, 2011.

¹¹ *Id.*

¹² *Id.*

¹³ Sulzberger, *New York Times*, Feb. 23, 2011.

¹⁴ *Id.*

¹⁵ Glauber, Stein and Marley, *Milwaukee Journal Sentinel*, Feb. 17, 2011.

¹⁶ Andy Kroll, Watchdog Wants Probe of Gov. Walker's State Patrol Visit, *Mother Jones*, February 24, 2011.

¹⁷ Mary Spicuzza, Politics Blog: State Troopers Sent to 14 Absent Senators' Homes, *Wisconsin State Journal*, February 24, 2011.

¹⁸ Steven Schultze, Troopers Sent to Absent Senators' Homes, *Milwaukee Journal Sentinel*, February 24, 2011.

¹⁹ *Id.*

²⁰ *Id.* In March 2011, Sen. Fitzgerald's office released documents suggesting the senator was aware there was no legal authority to send the troopers after the missing legislators. Some e-mails suggested doing so would require a legislative fix, though no such bill was ever passed. See Letter from CREW Executive Director Melanie Sloan to the State of Wisconsin Government Accountability Board, March 22, 2011 available at <http://www.scribd.com/doc/51308519/CREW-Wisconsin-Government-Accountability-Board-Regarding-Wisconsin-Governor-Walker-s-Dispatching-of-State-Patrol-3-22-11-Update-Letter-to-Wiscons>.

²¹ <http://www.youtube.com/watch?v=pihlr17nwbM>; Wis. GOP Sends State Troopers After Democratic Leader, but Comes Up Dry, *Associated Press*, February 18, 2011.

²² Spicuzza, *Wisconsin State Journal*, Feb. 24, 2011.

²³ *Id.*

The arrest of lawmakers when the legislature is in session is prohibited by Wisconsin's State Constitution except in cases of breaches of peace, felonies, or treason.²⁴ The governor may only call on the WSP in times of civil disturbance.²⁵ In cases of civil disturbance, the governor cannot call the WSP to intervene in any kind of labor dispute.²⁶ The legislation at the heart of the controversy specifically dealt with "compensation and fringe benefits of public employees."²⁷

On March 9, 2011, the bill passed the Senate without any Democrats present.²⁸ Gov. Walker signed it into law on March 11, 2011.²⁹ On March 12, after three weeks in hiding, the Democrats returned to Madison.³⁰ In 2012, in the wake of the budget bill controversy, Gov. Walker faced a prolonged and expensive recall election, which he won.³¹

SCANDAL

Illegal Activity

For much of Gov. Walker's term, the Milwaukee County District Attorney's office was engaged in a sprawling investigation of illegal activity that took place during Gov. Walker's time as executive of Milwaukee County and his campaign for governor. The years-long investigation, known as the John Doe Investigation, ultimately led to the convictions of several former Walker aides and a prominent donor to Gov. Walker's gubernatorial campaign committee.³² Much of the wrongdoing appeared designed to benefit Gov. Walker's 2010 gubernatorial campaign, and in November 2010, the day before the gubernatorial election, investigators subpoenaed e-mails from Gov. Walker's gubernatorial campaign committee.³³

The investigation was ultimately closed in March 2013.³⁴ Gov. Walker was never charged or accused of wrongdoing, maintained he was unaware of his aides' illegal activity, and said he was

²⁴ Melissa Bell, Wisconsin Democrats Boycott Vote; State Troopers Sent After Absent Senator, *Washington Post*, February 18, 2011; Wisconsin Constitution, Article IV, §15, Wisconsin Constitutional Convention, March 13, 1848; James Kelleher, Wisconsin Police Sent to Search for Democratic Senators, *Reuters*, February 24, 2011; Wisconsin Senate Republicans Send State Trooper After Democratic Leader Mark Miller, *Post Crescent (Appleton, WI)*, February 18, 2011; Dee J. Hall, Ability to Compel Senators' Return Murky, *Wisconsin State Journal*, February 22, 2011.

²⁵ Wis. Stat. § 323.12(2)(c) (2011).

²⁶ Wis. Stat. § 323.17 (2011).

²⁷ Senate Bill 11, State of Wisconsin 2011–2012 Legislature, January 2011 Special Session, February 14, 2011, available at http://docs.legis.wi.gov/2011/related/proposals/jr1_sb11/_32?up=1.

²⁸ Kroll, *Mother Jones*, Mar. 17, 2011.

²⁹ *Id.*

³⁰ *Id.*

³¹ Lee Ann Goodman, Scott Walker Faces Recall in Wisconsin After Fight with Public Sector Unions, *Associated Press*, June 4, 2012; Brian Montopol, Scott Walker Wins Wisconsin Recall Election, *CBS News*, June 5, 2012.

³² Dee J. Hall and Mary Spicuzza, Prosecutor Closes John Doe Investigation into Former Scott Walker Aides, *Wisconsin State Journal*, March 2, 2013; Andy Kroll, Scott Walker John Doe Investigation Explained, *Mother Jones*, February 7, 2012.

³³ Patrick Marley and Daniel Bice, State DOJ Officials Wanted to Stay out of John Doe Probe, *Milwaukee Journal Sentinel*, December 30, 2011.

³⁴ Hall and Spicuzza, *Wisconsin State Journal*, Mar. 2, 2013.

not a target of the probe.³⁵ He did create a legal defense fund and paid hundreds of thousands of dollars in legal fees in connection with the investigation.³⁶

Operation Freedom

The problems dated back to Gov. Walker's time as Milwaukee County executive. In 2009, his staff at the county realized some money raised by his annual Operation Freedom military appreciation day, a program for veterans, was unaccounted for, and reported the matter to the Milwaukee County district attorney's office.³⁷ The money had been overseen by a nonprofit, the Military Order of the Purple Heart.³⁸ The finance officer, Kevin Kavanaugh, also served on the Milwaukee County Veteran Service Commission.³⁹ He had been appointed by Gov. Walker, then the county executive.⁴⁰ After Gov. Walker's staff discovered the discrepancies and requested the investigation, authority over the money was transferred to the Heritage Guard Preservation Society, an organization run by a top Walker aide, Tim Russell.⁴¹ In August 2010, officials seized Mr. Russell's work computer.⁴² His home was raided in December 2010 as part of the probe.⁴³

In January 2012, Mr. Russell and Mr. Kavanaugh were charged with embezzling more than \$60,000, mostly from Operation Freedom, and using the money to pay for vacations and wedding expenses.⁴⁴ In addition, prosecutors said Mr. Russell used some of the money to pay fees associated with renewing domain names for Walker campaign websites and to travel to Georgia to meet with former Republican presidential candidate Herman Cain about his campaign.⁴⁵ Prosecutors said Mr. Russell and Mr. Kavanaugh did not work together, but instead embezzled money separately and at different times.⁴⁶

Illegal Campaign Activity

Gov. Walker has said his staff's complaint over the missing Operation Freedom money is what triggered the John Doe probe, which then broadened to include other wrongdoing by his aides.⁴⁷ In May 2010, Darlene Wink, Gov. Walker's constituent services coordinator while he worked for

³⁵ *Id.*; Scott Walker Closes Legal Defense Fund, *Associated Press*, March 29, 2013; Scott Bauer, 3 Arrested as Part of Probe into Ex-Walker Aides, *Associated Press*, January 6, 2012.

³⁶ Kroll, *Mother Jones*, Feb. 7, 2012; *Associated Press*, Mar. 29, 2013; Wisconsin Campaign Finance System, Expenditure Lookup, *Friends of Scott Walker*, 2010–2012; Hall and Spicuzza, *Wisconsin State Journal*, Mar. 2, 2013.

³⁷ Daniel Bice, Steve Schultze, and Jason Stein, Walker Appointees Charged in John Doe Investigation, *Milwaukee Journal Sentinel*, January 6, 2012.

³⁸ *Id.*

³⁹ *Id.*; Bauer, *Associated Press*, Jan. 6, 2012.

⁴⁰ *Id.*; Bice, Schultze and Stein, *Milwaukee Journal Sentinel*, Jan. 6, 2012.

⁴¹ *Id.*

⁴² Kroll, *Mother Jones*, Feb. 7, 2012.

⁴³ *Id.*; <http://www.jsonline.com/news/137697508.html#1291701600000-Authorities>.

⁴⁴ Bice, Schultze, and Stein, *Milwaukee Journal Sentinel*, Jan. 6, 2012. Mr. Russell's domestic partner, Brian Pierick, was charged with two felonies for child enticement due to evidence found during investigators' search of Mr. Russell's home.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

the county, resigned in the wake of press reports showing that during working hours, she posted comments to online articles praising Gov. Walker and criticizing his opponents.⁴⁸ Ms. Wink also wrote press releases for the local Republican party and organized a fundraiser for Gov. Walker while on county time and, at least in part, using a county computer.⁴⁹ In an e-mail to Mr. Russell, sent shortly after Ms. Wink's resignation, Gov. Walker wrote, "I talked to her at home last night. Feel bad. She feels worse."⁵⁰ The e-mail also said, "we cannot afford another story like this one."⁵¹

In August 2010, law enforcement officials searched Ms. Wink's home as part of the investigation.⁵² In February 2012, Ms. Wink pled guilty to two campaign finance-related misdemeanors.⁵³ Kelly Rindfleisch, Gov. Walker's deputy chief of staff while at the county, was also charged with four felonies for fundraising on county time.⁵⁴ She apparently worked illegally on behalf of a 2010 lieutenant governor campaign, but also traded thousands of e-mails with Walker campaign staffers during work hours.⁵⁵ In October 2012, Ms. Rindfleisch pled guilty to one felony count of misconduct in public office.⁵⁶ She served six months in jail, but in June 2013, she appealed, asking for her guilty plea and conviction to be thrown out because, she argued, the state's search of her computer was overly broad, and the state shouldn't have been allowed to use the results of it to prosecute her.⁵⁷

The investigation also ensnared William Gardner, chief executive officer of Wisconsin and Southern Railroad Co., for making excessive contributions to Gov. Walker's gubernatorial campaign and offering to reimburse employees for campaign contributions to Gov. Walker.⁵⁸ In May 2011, Mr. Gardner pled guilty to violating campaign finance laws and was subsequently sentenced to two years of probation.⁵⁹ As a result of the probe, the railroad company also paid a civil forfeiture of \$166,900 to the Wisconsin Government Accountability Board.⁶⁰ Gov. Walker's campaign returned \$43,800 in campaign contributions.⁶¹

⁴⁸ Kroll, *Mother Jones*, Feb. 7, 2012.

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Kroll, *Mother Jones*, Feb. 7, 2012.

⁵³ Steve Schultze, Former Walker Aide Pleads Guilty, Will Cooperate with DA, *Milwaukee Journal Sentinel*, February 7, 2012.

⁵⁴ *Id.*

⁵⁵ Hall and Spicuzza, *Wisconsin State Journal*, Mar. 2, 2013.

⁵⁶ Steve Schultze, Former Walker Aide Rindfleisch Enters Guilty Plea to Misconduct, *Milwaukee Journal Sentinel*, October 11, 2012.

⁵⁷ Marie Rohde, Former Walker Aide Appeals Conviction, *WisPolitics.com*, June 13, 2013.

⁵⁸ Daniel Bice and Patrick Marley, Railroad CEO Charged with Campaign Law Violations, *Milwaukee Journal Sentinel*, April 11, 2011.

⁵⁹ Don Behm, Rail Executive Gets Probation in Campaign Finance Case, *Milwaukee Journal Sentinel*, July 7, 2011.

⁶⁰ *Id.*

⁶¹ Patrick Marley and Jason Stein, Walker Donor Broke Political Contribution Rules, *Milwaukee Journal Sentinel*, May 19, 2010.

MISMANAGEMENT

Mortgage Settlement

In 2012, Wisconsin received \$140 million as part of a national settlement with banks accused of widespread mortgage fraud.⁶² A portion of each state's settlement was allocated to state governments, and was to be used to either repay public funds lost as a result of servicer misconduct or to "fund housing counselors, legal aid, and other similar purposes determined by state attorneys general."⁶³ Wisconsin's allotment was \$31.6 million.⁶⁴

Gov. Walker and state Attorney General J.B. Van Hollen instead instructed state officials to use the bulk of the settlement to help close the state's budget shortfall, saying it was an appropriate use of the money because the foreclosure crisis had damaged the state economically.⁶⁵ They put the remaining money in a fund earmarked to provide relief for local communities, mostly through loans and investments for small businesses and by demolishing vacant, foreclosed homes.⁶⁶

Wisconsin Economic Development Corp.

In 2011, Gov. Walker and the state legislature created the Wisconsin Economic Development Corp. (WEDC), a public-private business development group that replaced the state's Commerce Department.⁶⁷ Creating the WEDC was one of Gov. Walker's top priorities, and he chairs its board and appointed its director.⁶⁸

The agency has been troubled. In 2012, the *Milwaukee Journal Sentinel* reported it had failed to adequately track millions of dollars in overdue loans, prompting the resignation of senior managers.⁶⁹ In May 2013, the Wisconsin Audit Bureau released a report detailing illegal activity and a lack of oversight within the agency.⁷⁰ The audit report determined the WEDC did not have sufficient policies in place to deal with \$520 million in grant, loan, and tax-credit programs, and found it did not obey the law or its own existing policies when handling delinquent loans.⁷¹ The WEDC did not have invoices or other required documents for a number of grants the audit board reviewed.⁷² The agency also retroactively gave out \$906,000 in tax credits for job creation and employee training.⁷³

⁶² Dee J. Hall, Use of Portions of Bank Foreclosure Settlement Questioned, *Wisconsin State Journal*, January 13, 2013; Jason Stein and Paul Gores, Walker, Van Hollen: Chunk of Mortgage Settlement Going to State Budget, *Milwaukee Journal Sentinel*, February 9, 2012.

⁶³ https://d9klfgibkcquc.cloudfront.net/Mortgage_Servicing_Settlement_Fact_Sheet.pdf.

⁶⁴ Stein and Gores, *Milwaukee Journal Sentinel*, Feb. 9, 2012.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Scott Bauer, Blistering Audit Faults Wis. Job Creating Agency, *Associated Press*, May 1, 2013.

⁶⁸ Wisconsin: Troubles Mount for Walker's Jobs Agency, *Associated Press*, May 7, 2013.

⁶⁹ Jason Stein, Development Agency Changes Players Again, *Milwaukee Journal Sentinel*, June 13, 2013.

⁷⁰ Bauer, *Associated Press*, May 1, 2013.

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

Almost all recipients of WEDC's grant and loan contracts of at least \$100,000 failed to submit financial statements required by law.⁷⁴ The WEDC also did not verify performance of grant recipients — something required by the state — and in some cases gave tax breaks to ineligible companies.⁷⁵ In addition, WEDC employees inexplicably spent agency money on alcohol, iTunes gift cards, and season tickets to University of Wisconsin football games.⁷⁶

The report enraged both Democrats and Republicans, who called for reforming or reorganizing the agency.⁷⁷ Legislators are considering several measures, including withholding money until the agency addresses the issues found by the audit.⁷⁸ In June 2013, the state Senate passed a bill that would set six-year terms for WEDC board members, who currently serve at the pleasure of the governor and legislative leaders.⁷⁹ In addition, state auditors would be required to review WEDC annually, and the public-private agency's employees would be subject to state ethics laws.⁸⁰

PARTISAN POLITICS

Rescinding Appointment

In June 2013, Gov. Walker rescinded the appointment of Joshua Inglett to the University of Wisconsin System Board of Regents after learning Mr. Inglett had signed a petition to recall the governor.⁸¹ Mr. Inglett, an engineering student at the University of Wisconsin-Platteville, had sought the student representative position for several months before the governor nominated him.⁸² Mr. Inglett was subsequently contacted by one of Gov. Walker's aides, who asked him if he had signed the petition.⁸³ Mr. Inglett initially could not remember, but said he returned the call a few moments later to say that he had.⁸⁴ Within a few hours, he received another call from a Walker aide, who told him the nomination had been rescinded.⁸⁵ Gov. Walker declined to publicly say why he was withdrawing Mr. Inglett's nomination, but Mr. Inglett said he was told it was because the governor's office did not believe he could be confirmed by the state Senate.⁸⁶

Voter ID Law

In May 2011, Gov. Walker signed a voter ID bill into law.⁸⁷ The law, which Gov. Walker has been a strong proponent of since he was a member of the State Assembly more than a decade

⁷⁴ Bauer, *Associated Press*, May 1, 2013.

⁷⁵ *Associated Press*, May 7, 2013.

⁷⁶ Bauer, *Associated Press*, May 1, 2013.

⁷⁷ *Associated Press*, May 7, 2013.

⁷⁸ Jason Stein, Budget Panel Holds Up WEDC Funding, *Milwaukee Journal Sentinel*, May 10, 2013.

⁷⁹ Wisconsin Senate Approves WEDC Board Term Limits, *Associated Press*, June 18, 2013.

⁸⁰ *Id.*

⁸¹ Karen Herzog and Patrick Marley, Scott Walker Pulls Student's Regents Appointment over Recall Petition, *Milwaukee Journal Sentinel*, June 14, 2013.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ Herzog and Marley, *Milwaukee Journal Sentinel*, June 14, 2013.

⁸⁶ *Id.*

⁸⁷ James B. Kelleher, Wisconsin Voter ID Law Signed by Scott Walker, *Reuters*, May 25, 2011.

ago, requires presentation of photo identification in order to vote.⁸⁸ It also requires voters casting absentee ballots to mail copies of their photo identification along with their ballots.⁸⁹ Opponents have challenged the law, arguing it violates both the state and U.S. Constitution, and court battles have prevented it from going into effect.⁹⁰ In May 2013, a state appeals court overturned a lower court's decision holding that the law violated the state's constitution.⁹¹ Another state appeals court has yet to decide on a separate challenge and two federal lawsuits are pending, on hold until the state cases are resolved.⁹²

⁸⁸ *Id.*; Scott Bauer, Wisconsin Governor Scott Walker Signs Voter ID Law, *Associated Press*, May 26, 2011; AP Election Guide, *Associated Press*, 2010, available at <http://www.webcitation.org/5waQHlpQj>.

⁸⁹ Bauer, *Associated Press*, May 26, 2011.

⁹⁰ Brendan O'Brien, Wisconsin's Voter ID Law Constitutional, Appeals Court Rules, *Reuters*, May 30, 2013; Patrick Marley, Wisconsin Appeals Court Rules Voter ID Law Constitutional, *Milwaukee Journal Sentinel*, May 30, 2013; Patrick Marley, Voter ID Suspended for Recall Elections, *Milwaukee Journal Sentinel*, April 26, 2012; Andrew Harris, Wisconsin Attorney General Seeks to Restore Voter-ID Law, *Bloomberg*, April 12, 2012.

⁹¹ *Id.*

⁹² *Id.*

CLOWNS

STEVEN BESHEAR

Gov. Steven Beshear (D-KY) was elected in 2007 and re-elected in 2011. Under the state's term limits law, he cannot run for re-election in 2015. His inclusion stems from the politicized firing of the head of the state's mine permitting division and from allowing representatives of the coal industry to exert improper influence over official appointments.

PRESSURING PUBLIC OFFICIALS

Wrongful Firing of Coal Industry Regulator

On November 13, 2009, Ron Mills, Kentucky's director of the division of mine permits, was fired.¹ Soon after, Mr. Mills suggested that his dismissal was a result of his efforts to block mine permits sought by Alliance Resource Partners and issued under a controversial policy, the so-called "33 1/3 rule."² The rule had allowed mining companies to begin mining underground before obtaining the legal right to enter all of the land included in their plans. Critics said the policy was illegal because it conflicted with state and federal laws, and after Mr. Mills' appointment by Gov. Beshear in 2008, he rescinded the rule and refused to issue permits under it.³

Mr. Mills' decision was overturned by the deputy secretary of the energy and environment cabinet, Hank List, who ordered all permit applications including the 33 1/3 provision to be approved over Mr. Mills' objections.⁴ This included five permits for Alliance Resource Partners.⁵

A month after his firing, Mr. Mills filed an appeal with the state's personnel board, arguing that he was fired due to his age and "his refusal to issue permits based upon an illegal policy."⁶ Soon after, Mr. Mills filed a lawsuit under the state Whistleblower Act seeking lost wages, compensatory damages, and punitive damages.⁷ In his lawsuit, Mr. Mills argued that his efforts to inform his superiors that permits issued under the 33 1/3 rule violated state law and state administrative regulation were "the substantial contributing factor/cause" of his dismissal.⁸

Mr. Mills told reporters his direct supervisor, Carl Campbell, had informed him that Alliance Resource Partners, together with Gov. Beshear's office, had sought his removal over his opposition to the rule.⁹ Mr. Mills also said the personnel official who informed him of his firing told him that Gov. Beshear "was involved."¹⁰

¹ Tom Loftus, Ky. Mine Permit Director Dismissed, *Courier-Journal*, November 14, 2009.

² Tom Loftus, Fired Official Says Mine Rule Illegal; Mills Says He Refused to Sign 6 Permits, *Courier-Journal*, November 18, 2009.

³ John Cheves, Mine Permitting Official Overruled to 'Accommodate The Coal Interests', *Lexington Herald-Leader*, December 3, 2009.

⁴ *Id.*

⁵ *Id.*

⁶ Tom Loftus, Mills Appeals Firing to State; Political and Age, *Courier-Journal*, December 15, 2009.

⁷ Tom Loftus, Former Mine Permits Chief Files 'Whistleblower' Suit, *Courier-Journal*, February 2, 2010.

⁸ Loftus, *Courier-Journal*, Feb. 2, 2010.

⁹ Cheves, *Lexington Herald-Leader*, Dec. 3, 2009.

¹⁰ Loftus, *Courier-Journal*, Nov. 18, 2009.

State Energy and Environment Secretary Len Peters denied firing Mr. Mills at the behest of the coal industry or Gov. Beshear.¹¹ Instead, Mr. Peters said he decided on his own to fire Mr. Mills because he was not meeting performance expectations.¹² Mr. Mills' personnel file, however, did not include any documentation of performance issues.¹³ In a deposition, Mr. Campbell said he was "shocked" by Mr. Mills' firing, agreed the 33 1/3 rule was illegal, and had never heard Mr. Peters complain about Mr. Mills' job performance.¹⁴ Mr. Campbell said no one ever told him directly that Alliance Resource Partners wanted Mr. Mills fired, but "industry representatives voiced the opinion that we were taking too long to do the permit reviews" and "if you don't make the decisions that they want to hear, they tend to try to get you moved out of those positions."¹⁵ Mr. Campbell was fired in 2011, shortly after Gov. Beshear won re-election.¹⁶ Mr. Campbell, who had worked for the state since 1978, said he did not know why he was fired.¹⁷

Alliance Resources Partners CEO Joe Craft, meanwhile, told the *Courier-Journal* his company had not complained about Mr. Mills.¹⁸ Gov. Beshear publicly denied any involvement in Mr. Mills' firing and told reporters he did not learn about the dismissal until the day it happened or the next day.¹⁹ In a deposition taken in connection with Mr. Mills' lawsuit, Gov. Beshear said coal industry pressure had not led to Mr. Mills' termination.²⁰

Alliance Resource Partners, however, was clearly kept closely informed of Mr. Mills' job status. Mr. Mills said he was informed of his dismissal around 9 a.m. on November 13, 2009.²¹ At 9:24 a.m., Raymond "Rusty" Ashcraft, Alliance Resource Partners' manager of environmental affairs and mine permitting, sent an e-mail to colleagues saying "Ron Mills will be asked to resign this morning and will be replaced by Allen Luttrell on an acting basis."²² Mr. Luttrell was Mr. Mills' deputy in the division of mine permits.²³ Mr. Ashcraft had received a call on his cell phone from Mr. Luttrell 14 minutes before sending that e-mail, according to state phone records obtained by the *Courier-Journal*.²⁴

Mr. Ashcraft, who was not registered to lobby the executive branch in Kentucky at the time of Mr. Mills' firing, nonetheless often communicated with Beshear administration officials about coal-related issues.²⁵ In the deposition he gave as part of Mr. Mills' lawsuit, Mr. Ashcraft said

¹¹ Cheves, *Lexington Herald-Leader*, Dec. 3, 2009.

¹² Tom Loftus, Energy Chief: I Fired Mills on My Own, *Courier-Journal*, December 3, 2009; John Cheves, No Complaints in Mine Permits Director's File, *Lexington Herald-Leader*, December 16, 2009.

¹³ *Id.*; Loftus, *Courier-Journal*, Dec. 3, 2009.

¹⁴ Tom Loftus, Official 'Shocked' by Firing of Mills; Removal of State Mine Permits Director, *Courier-Journal*, July 31, 2010.

¹⁵ *Id.*

¹⁶ Tom Loftus, Firing Shocks State Official, *Courier-Journal*, December 1, 2011.

¹⁷ *Id.*

¹⁸ Tom Loftus, Coal Company Source of Big Political Gifts, *Courier-Journal*, November 19, 2009.

¹⁹ Jack Brammer, Gov. Sees Nothing Amiss in Dismissal, *Lexington Herald-Leader*, December 7, 2009.

²⁰ John Cheves, Trial Delayed Again in Case That Probe's Coal's Influence on Beshear, *Lexington Herald-Leader*, September 18, 2012.

²¹ Tom Loftus, Coal Lobbyist was Called After Mills' Firing, *Courier-Journal*, December 19, 2009.

²² John Cheves, E-Mail Raises Questions in Firing, *Lexington Herald-Leader*, December 7, 2009.

²³ Cheves, *Lexington Herald-Leader*, Dec. 7, 2009.

²⁴ Loftus, *Courier-Journal*, Dec. 19, 2009.

²⁵ John Cheves, Coal Executive Not Registered as Lobbyist, *Lexington Herald-Leader*, December 9, 2009.

he had been informed the morning of the firing “by an individual in the governor’s office.”²⁶ Though he said he could not recall exactly who told him, Mr. Ashcraft said “it was either Geoff Dunn or Jeff Belcher.”²⁷ Mr. Dunn was the executive director of boards and commissions in the governor’s office and Mr. Belcher was one of Gov. Beshear’s staff assistants.²⁸ In their own depositions, Mr. Belcher denied calling Mr. Ashcraft about the firing and Mr. Dunn was unable to remember whether he had done so.²⁹ Mr. Mills has said Mr. Belcher regularly called the division of mine permits to ask about permit applications on behalf of coal companies.³⁰ Mr. Ashcraft also said in his deposition that he had lobbied the administration of Gov. Beshear’s predecessor to enact the controversial 33 1/3 rule, and after Mr. Mills rescinded the rule, he lobbied the Beshear administration to reinstate it.³¹ Additionally, as part of Alliance Resource Partners’ efforts around the 33 1/3 rule, the coal company hired Gov. Beshear’s former law firm, Stites & Harbison of Lexington, to work on a legal defense of it.³²

In court, the Beshear administration’s lawyers argued Mr. Mills had been fired based on poor job performance.³³ In his own deposition, Mr. Peters denied that the coal industry had influenced him and criticized Mr. Mills’ management skills, citing a backlog of pending mine permits.³⁴ Mr. Campbell, however, said Mr. Mills was a good manager and the backlog of permits predated him.³⁵ James Dickinson, a policy advisor and attorney at the state Natural Resources Department, said in his deposition that the consensus in the department was that the 33 1/3 policy was central to Mr. Mills’ termination.³⁶ Mr. Dickinson also said Mr. Ashcraft had “openly and publicly to several people” said he was “extremely unhappy” with Mr. Mills’ decision to rescind the policy.³⁷

The Beshear administration sought to have Mr. Mills’ lawsuit dismissed, unsuccessfully challenging it in motions that went as high as the Kentucky Court of Appeals.³⁸ In November 2012, the state settled the lawsuit for \$270,000.³⁹ The agreement, which included a confidentiality provision, explicitly said the state did not admit “any liability, violation or wrongdoing.”⁴⁰

²⁶ John Cheves, *Beshear Aide Allegedly Gave Coal Industry Early Word of Regulator’s Firing*, *Lexington Herald-Leader*, July 30, 2011.

²⁷ *Id.*

²⁸ Cheves, *Lexington Herald-Leader*, Dec. 9, 2009; Cheves, *Lexington Herald-Leader*, Dec. 3, 2009.

²⁹ Cheves, *Lexington Herald-Leader*, July 30, 2011.

³⁰ Cheves, *Lexington Herald-Leader*, Dec. 3, 2009.

³¹ Cheves, *Lexington Herald-Leader*, July 30, 2011.

³² *Id.*

³³ Cheves, *Lexington Herald-Leader*, Sept. 18, 2012.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ Cheves, *Lexington Herald-Leader*, Sept. 18, 2012.

³⁸ *Id.*

³⁹ Tom Loftus, *Kentucky to Pay Fired Mine Permits Director \$270,000 Settlement*, *Courier-Journal*, November 21, 2012.

⁴⁰ Loftus, *Courier-Journal*, Nov. 21, 2012.

MISMANAGEMENT

Coal Industry Influenced Beshear Appointments

Documents filed as part of the Mills lawsuit hints at the extent of Alliance Resource Partners' influence on the Beshear administration's decisions. The court file included an e-mail from Mr. Ashcraft to Gov. Beshear's then-chief of staff, Adam Edelman, about potential appointments to a federal panel on mountaintop removal mining.⁴¹ In his e-mail, Mr. Ashcraft provided the names of three men that Alliance Resource Partners wanted Gov. Beshear to nominate for the panel.⁴² "Thanks. Will follow up in short order," replied Mr. Edelman.⁴³ According to Mr. Ashcraft, Gov. Beshear eventually nominated two of the three men he suggested.⁴⁴ Mr. Ashcraft was asked about his interest in the nominations during his deposition. "Is Alliance Coal engaged in mountaintop mining?" asked Mr. Mills' attorney, Bernard Pafunda.⁴⁵ "No, sir," replied Mr. Ashcraft.⁴⁶ "So why stick your nose into mountaintop mining?" Mr. Pafunda asked.⁴⁷ "Good question," Mr. Ashcraft responded.⁴⁸ "These names were suggested by other members of industry and sent to me."⁴⁹

The Beshear administration has appointed other officials with ties to Alliance Resource Partners. Roughly a month before Mr. Mills was fired, Gov. Beshear reappointed Mr. Ashcraft to the Kentucky Geological Survey Advisory Board.⁵⁰ Gov. Beshear appointed Alliance Resource Partners CEO Craft to his Kentucky Climate Action Plan Council, tasked with helping Kentucky work toward "energy independence" while lowering its carbon footprint.⁵¹ In March 2012, Jerry F. "Freddie" Lewis, Sr., a former safety director at Alliance Resource Partners, was named the new executive director of the Office of Mine Safety and Licensing.⁵²

⁴¹ Cheves, *Lexington Herald-Leader*, July 30, 2011.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Cheves, *Lexington Herald-Leader*, July 30, 2011.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Cheves, *Lexington Herald-Leader*, July 30, 2011.

⁵⁰ <http://apps.sos.ky.gov/Executive/Journal/execjournalimages/2009-COMM-205068.pdf>.

⁵¹ Linda B. Blackford, *Billionaire Joe Craft at Nexus of Kentucky Basketball, Coal and Politics*, *Lexington Herald-Leader*, November 4, 2012.

⁵² *Id.*

JAN BREWER

Gov. Jan Brewer (R-AZ) assumed the governorship in 2009, after then-Gov. Janet Napolitano (D-AZ) resigned. She was elected to a full term in 2010. Under the state constitution, she cannot run for re-election in 2014 because governors are permitted to serve a maximum of two consecutive terms.¹ Gov. Brewer's inclusion stems from: (1) improper intervention in the state's redistricting process; (2) awarding of unnecessary bonuses; (3) spending excessively on travel; and (4) advocating for new voter identification restrictions.

PRESSURING PUBLIC OFFICIALS

Improper Intervention in Redistricting Process

After Arizona's bipartisan redistricting commission drafted new maps that would have made Democratic candidates competitive in a majority of the state's congressional districts, Gov. Brewer successfully urged the state Senate to impeach the commission's chairwoman, Colleen Mathis, a political independent, based on allegations that the commission had failed to meet constitutional criteria.² Gov. Brewer said the commission had produced a "flawed product" and improperly prioritized constitutional requirements in an effort to make districts more competitive.³ In addition, Gov. Brewer reportedly wanted to remove the two Democrats on the commission but wasn't able to muster enough state Senate votes to do so.⁴ The Arizona Supreme Court eventually reinstated Ms. Mathis, finding she had not committed the "substantial neglect of duty" or "gross misconduct" the state constitution requires to justify her removal.⁵

MISMANAGEMENT

Unnecessary Bonuses

In June 2010, by executive order, Gov. Brewer moved to eliminate the state commerce department and replace it with a public-private entity called the Arizona Commerce Authority (ACA).⁶ In November 2010, she announced that Don Cardon, the director of the old commerce department, would head the new authority.⁷ On August 30, 2011, the ACA board, which is appointed and headed by Gov. Brewer, awarded Mr. Cardon a three-year contract.⁸ The contract

¹ Arizona state law treats a partial term as a full term. Nevertheless, Gov. Brewer has mentioned the possibility of running for a third term and her former general counsel has publicly suggested she could seek a court ruling that would allow her to run. See Sean Peick, Despite Law, Some Say 3rd Term for Brewer is Possible, *Cronkite News Service*, December 12, 2012.

² Alex Isenstadt, Colleen Mathis Impeached by Jan Brewer, Arizona Senate, *Politico*, November 1, 2011.

³ *Id.*

⁴ Red and Blue: Redistricting Battle Heats Up, *Arizona Public Media*, November 3, 2011.

⁵ Court Reinstates Ousted Head of Arizona Redistricting Panel, *Los Angeles Times*, November 17, 2011; Mary Jo Pitzl, Court Orders Reinstatement of Redistricting Official, *Arizona Republic*, November 18, 2011.

⁶ Press Release, Governor Jan Brewer Establishes New Arizona Commerce Authority — Significant Economic Development Measures on the Horizon, Office of the Governor, State of Arizona, June 29, 2010.

⁷ Press Release, Governor Jan Brewer Announces Don Cardon Will Stay as President and CEO of Arizona Commerce Authority, *Arizona Commerce Authority*, November 30, 2010.

⁸ Elvina Nawaguna-Clemente, Commerce Authority Head Don Cardon Gets Big Raise in New Economic Role, *Cronkite News Service*, September 2, 2011.

called for Mr. Cardon to receive a \$117,000 raise over his old commerce department salary, bringing it to \$300,000. In addition, he received a \$50,000 signing bonus, a monthly \$1,000 car stipend, six weeks of paid time off a year, and an extra \$30,000 allowance paid by private donors to cover additional expenses.⁹

A few months later, on January 11, 2012, Mr. Cardon announced he was resigning from the ACA.¹⁰ Gov. Brewer, who chairs the agency, supported the agency's executive committee's decision to give him a discretionary bonus of \$60,657.¹¹ The state paid the bonus, though Team ACA, a nonprofit fundraising organization associated with the ACA and also headed by Mr. Cardon, said it would reimburse the state for the bonus and half of Mr. Cardon's salary.¹²

ACA justified the bonus by saying Mr. Cardon helped create thousands of jobs and millions of dollars in new investments.¹³ Those numbers included jobs businesses had promised to create but that did not yet exist, and capital investments projected but not yet made.¹⁴

Excessive Spending on Travel

Gov. Brewer and two members of her staff spent roughly \$32,000 on a European trade trip in May and June of 2012.¹⁵ Gov. Brewer and her chief of staff flew business class.¹⁶ In addition, the delegation spent more than \$3,500 on meals and Internet access and incurred \$4,160 in cancellation fees after switching hotels.¹⁷ Taxpayers paid for more than half of the trip.¹⁸ Team ACA, the nonprofit fundraising group set up to raise money for the ACA's budget and a state promotional account funded by private donations paid for the rest.¹⁹ The nonprofit's board includes representatives from businesses, including Arizona-based Apollo Group, Alliance Bank of Arizona, and JP Morgan Chase.²⁰ Team ACA has only disclosed some contributors, and watchdogs have criticized it for failing to disclose information about its donors and contribution amounts.²¹

⁹ *Id.*

¹⁰ Mike Sunnucks, Don Cardon Steps Down as CEO of Arizona Commerce Authority, *Phoenix Business Journal*, January 11, 2012.

¹¹ Craig Harris, Former Arizona Commerce Authority CEO Don Cardon's Bonus Stirs Questions, *Arizona Republic*, August 9, 2012.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Yvonne Wingette Sanchez, Brewer, Aides Spend \$32,000 on Europe Trade Trip, *Arizona Republic*, September 18, 2012.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Mike Sunnucks, Info on Private Arizona Fundraising Group, 'Team ACA,' Hard to Come By, *Phoenix Business Journal*, September 13, 2012; Paul Davenport, Brewer, Aides Spend \$32,000 on Europe Trade Trip, *Associated Press*, September 18, 2012.

²⁰ Jeremy Duda, The Veiled Power Behind Arizona Commerce, *Arizona Capitol Times*, October 15, 2012.

²¹ Jeremy Duda, Arizona's Team ACA Punts on Disclosure Policy, *Arizona Capitol Times*, October 19, 2012.

PARTISAN POLITICS

Voter ID

In 2004, voters approved a measure known as Proposition 200, with support from then-Secretary of State Brewer.²² Among other requirements, Prop 200 required voters to show proof of citizenship when registering to vote and photo identification at polling stations.²³ The law was challenged in federal court by a coalition of voting rights groups, and in October 2006, the 9th Circuit Court of Appeals temporarily suspended the law pending further litigation.²⁴ Later that month, then-Secretary of State Brewer appealed the hold to the U.S. Supreme Court.²⁵ The Supreme Court vacated the appellate court's hold and sent the case back to the lower courts without ruling on the merits.²⁶ In October 2010, the 9th Circuit Court of Appeals struck down the law's proof of citizenship requirement.²⁷ The state appealed the decision, and in June 2013, the Supreme Court ruled that the law's proof of citizenship requirement was unconstitutional.²⁸

²² Michelle Ye Hee Lee, Appeals Court Strikes Down Voter-ID Law, *Arizona Republic*, October 27, 2010.

²³ *Id.*

²⁴ <http://www.ncsl.org/legislatures-elections/elections/voter-id.aspx>; Michael Kirkland, Voter ID Fight Finally Reaches High Court, *UPI*, October 21, 2012; David G. Savage, Supreme Court Will Decide on Arizona Voter ID Law, *Los Angeles Times*, October 15, 2012.

²⁵ Press Release, Sec. of State Brewer Expresses Alarm and Concern Over Court Decision, Arizona Department of State, October 5, 2006; Press Release, Sec. of State Brewer Gets ID at Polls Reinstated, Arizona Department of State, October 20, 2006.

²⁶ Kirkland, *UPI*, Oct. 21, 2012; Linda Greenhouse, Supreme Court Allows Arizona to Use New Voter-ID Procedure, *New York Times*, Oct. 21, 2006.

²⁷ Ye Hee Lee, *Arizona Republic*, Oct. 27, 2010.

²⁸ AZ Voter ID Law Ruled Unconstitutional, *Arizona Public Media*, June 17, 2013.

TOM CORBETT

Gov. Tom Corbett (R-PA) was elected in 2010. He is eligible for re-election in 2014, but has not said whether he will run again. His inclusion stems from: (1) accepting gifts from law firms, lobbyists, and others with business before the state; (2) concealing the awarding of a state contract to a campaign contributor; (3) an investigation into his handling of the Penn State abuse scandal while attorney general; and (4) advocating for new voter identification restrictions.

SELF-ENRICHMENT

Acceptance of Gifts

Gov. Corbett has accepted thousands of dollars in gifts from executives, lobbyists, law firms, and others who, in many instances, had business interests before the state. In most cases, the governor received campaign contributions as well. Public officials are allowed to accept gifts under Pennsylvania law, but are prohibited from accepting gifts from anyone engaged in business activity regulated by the state.¹

In March 2013, the Pennsylvania Democratic Party filed an ethics complaint with the State Ethics Commission regarding the gifts.²

Blank Rome

Between 2007 and 2010, Gov. Corbett and his wife, Susan Corbett, accepted thousands of dollars in gifts from Blank Rome, a powerful Philadelphia law firm that represents several companies in the oil, gas, and coal industries.³ The firm has a number of clients with financial interests tied to the Marcellus Shale, Pennsylvania's natural gas reserve, and it is an associate member of the Marcellus Shale Coalition, an industry lobbying organization.⁴

Blank Rome gave the Corbetts tickets collectively worth \$15,000 to the Philadelphia Academy of Music Concert and Ball in 2007, 2008, and 2010.⁵ The couple also received tickets worth \$275 to a Pennsylvania Society dinner.⁶ The law and lobbying firm also bought tickets to Philadelphia Phillies games, including a \$65 ticket for opening day in 2010.⁷

¹ Marie Cusick, Formal Ethics Complaint Filed over Free Gifts Taken by Corbett, *StateImpact/NPR*, March 5, 2013.

² *Id.* The complaint also cited gifts from lobbyists for the University of Pittsburgh Medical Center (UPMC). For example, on New Year's Day 2011, Robert Kennedy, a lobbyist for UPMC, paid for then-Governor-elect Corbett to attend the NHL Winter Classic in Pittsburgh and a pre-game brunch, which together were valued at \$472. See Will Bunch, Corbett, Wife Accepted Thousands in Gifts from Biz Execs, Lobbyists, *Philadelphia Inquirer*, March 6, 2013.

³ Marie Cusick, Corbett and His Wife Took over \$15,000 in Gifts from Law Firm Representing Oil and Gas Industry, *StateImpact/NPR*, March 13, 2013.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Cusick, *StateImpact/NPR*, Mar. 13, 2013.

Blank Rome attorneys and executives contributed nearly \$35,000 to Gov. Corbett's 2010 gubernatorial campaign committee.⁸ Blank Rome also donated between \$15,000 and \$25,000 to the governor's 2011 Inaugural Ball, which gave the firm "Platinum Sponsor" status.⁹

After Gov. Corbett took office, he appointed a former Blank Rome partner, Michael Krancer, then chair of the state's Environmental Hearing Board, to head the Department of Environmental Protection (DEP).¹⁰ Environmentalists criticized Mr. Krancer for what they saw as pro-industry stances, and federal environmental regulators said the state needed to do a better job of monitoring and regulating the impact of drilling wastewater discharge near public water sources.¹¹ Mr. Krancer stepped down in April 2013 and returned to Blank Rome as head of the firm's energy, petrochemical, and natural resources practice.¹²

John Moran, Jr.

Gov. Corbett and his wife accepted a free trip from John Moran, Jr., a warehousing and transportation company executive, while Mr. Moran's company was attempting to secure an exemption to Pennsylvania permitting rules to operate a fracking waste site without waiting for required environmental permits. Mr. Moran and Gov. Corbett have described themselves as personal friends.¹³ Mr. Moran and his wife, Ann, contributed more than \$93,700 to Gov. Corbett's 2010 gubernatorial campaign.¹⁴ Mr. Moran has also contributed \$20,000 to Gov. Corbett's 2014 campaign.¹⁵

In 2010, Jeffrey Stroehmann, vice president of Moran Industries, wrote to Pennsylvania's outgoing Department of Environmental Protection commissioner, John Hanger, asserting that the waste from natural gas fracking was becoming a problem.¹⁶ Because of that, Mr. Stroehmann wanted a Moran-owned industrial site in Sunbury, Penn., to be permitted to operate without a state permit.¹⁷ Moran thought that would be possible because the company had a contract with an interstate railroad that opened the door to an exemption from Pennsylvania permitting laws.¹⁸ Mr. Stroehmann said the company could not wait the six to nine months it would likely take to receive a permit through the normal process.¹⁹ Mr. Hanger, part of the outgoing administration

⁸ Follow the Money, Contributions Lookup, Tom Corbett for Governor, 2009–2010.

⁹ Cusick, *StateImpact/NPR*, Mar. 13, 2013.

¹⁰ *Id.*; Mark Shade, DEP Secretary Krancer Hit on Marcellus Shale, Smallmouth Bass, Phillyburbs.com, February 22, 2013; Don Hopey, Pennsylvania Environmental Secretary to Step Down; Krancer Praised, Criticized for Actions, *Pittsburgh Post-Gazette*, March 23, 2013.

¹¹ *Id.*

¹² Marie Cusick, Controversial Head of DEP Leaving Agency to Work on Behalf of Energy Industry, *StateImpact/NPR*, March 22, 2013; Susan Phillips, Revolving Door Keeps Spinning for Former DEP Chief Michael Krancer, *StateImpact/NPR*, May 2, 2013; <http://www.blankrome.com/index.cfm?contentID=10&bioID=471>.

¹³ Will Bunch, Money, Politics and Pollution in Fracking Country, *Philadelphia Inquirer*, January 16, 2013.

¹⁴ Follow the Money, Contributions Lookup, Tom Corbett for Governor, 2009–2010.

¹⁵ Follow the Money, Contributions Lookup, Tom Corbett for Governor, 2011.

¹⁶ Bunch, *Philadelphia Inquirer*, Jan. 16, 2013.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

of former Gov. Ed Rendell (D-PA), said the company would have to either go through the normal permit process or submit more information in support of its request for an exemption.²⁰

Nonetheless, on January 18, 2011 — one day before Gov. Corbett's inauguration — trucks entered the site, filled with drilling debris.²¹ The site's neighbors said they repeatedly called DEP to complain about spills, strange odors, and the need for more information about the type of waste flowing through the site.²² DEP inspectors visited repeatedly, but, puzzlingly, said they found no violations, even though the site was apparently operating without the appropriate permits.²³

In July 2011, even as Sunbury residents were questioning the use of the Moran Industries site in their town, Gov. Corbett and Ms. Corbett traveled with Mr. Moran to Rhode Island for a yachting vacation over a long weekend.²⁴ Gov. Corbett originally failed to disclose the trip on his 2011 statement of financial interests, but later amended the statement to report \$1,422 worth of gifts from Mr. Moran — the value of air travel and hotel accommodations for the governor and first lady.²⁵ Gov. Corbett said the trip was omitted from his original statement because of a clerical error.²⁶ Mr. Moran also paid \$901 to fly the governor on his private plane and helicopter to events in Pittsburgh and Williamsport in September 2011.²⁷ Watchdogs criticized the trips as inappropriate.²⁸

DEP officially granted approval for operations at the Sunbury site in March 2012.²⁹ The DEP's approval allowed the site to operate without a permit and was based on an agreement between Moran Industries and Norfolk Southern railroad, even though that particular agreement had been signed in April 2011, roughly three months after Moran began operating at the Sunbury site.³⁰

Shortly after the Rhode Island trip, Gov. Corbett appointed Mr. Moran to the Advisory Council on Privatization and Innovation, a 24-member panel he created to examine opportunities to privatize state services.³¹ He appointed Ann Moran, Mr. Moran's wife, to an unpaid position with the Pennsylvania Historical and Museum Commission.³² In 2012, Gov. Corbett named Mr. Moran a co-chair of the Team Pennsylvania Foundation, a nonprofit that focuses on economic development, and the Team Pennsylvania website has featured Moran Industries.³³ Gov. Corbett

²⁰ Bunch, *Philadelphia Inquirer*, Jan. 16, 2013.

²¹ *Id.*

²² Bunch, *Philadelphia Inquirer*, Jan. 16, 2013.

²³ *Id.*

²⁴ Marie Cusick, Ethics Filing Shows Corbett Took Free Vacation from Businessman with Ties to Gas Industry, *StateImpact/NPR*, December 20, 2012.

²⁵ *Id.*; Bunch, *Philadelphia Inquirer*, Mar. 6, 2013.

²⁶ Amy Worden, Corbett Defends Donor Paid Vacation, *Philadelphia Inquirer*, December 20, 2012.

²⁷ Cusick, *StateImpact/NPR*, Dec. 20, 2012.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ Cusick, *StateImpact/NPR*, Dec. 20, 2012; Tracie Mauriello, Corbett Sets Privatization Panel, *Pittsburgh Post-Gazette*, September 30, 2011.

³² Cusick, *StateImpact/NPR*, Dec. 20, 2012.

³³ *Id.*

is the other co-chair of Team Pennsylvania.³⁴ Mr. Moran accompanied the governor on a trade mission to France and Germany in 2012 to promote the Marcellus Shale.³⁵ In 2013, Mr. Moran announced he would accompany Gov. Corbett on a trade mission trip to Brazil and Chile.³⁶

Empire Education Group

In December 2011, Empire Education Group CEO Frank Schoeneman flew Gov. Corbett to an event in Pittsburgh on his private jet, a trip valued at \$1,407.³⁷ Mr. Schoeneman also contributed nearly \$36,000 to Gov. Corbett's 2010 gubernatorial campaign.³⁸ In 2012, Gov. Corbett signed a bill easing requirements for state cosmetology licenses, seen as a boon to Empire Education Group students.³⁹

Clothing Donations

For Gov. Corbett's inauguration, Marty Lane, an insurance company executive, donated \$1,800 to partially pay for the first lady's gown and coat.⁴⁰ The gown's designers also donated clothing totaling \$9,776 for the first lady for the inauguration and her birthday.⁴¹

TRANSPARENCY

Failed to Disclose Contract with Outside Law Firm

Philadelphia law and lobbying firm Drinker Biddle & Reath and its employees donated \$21,000 to Gov. Corbett's campaigns between 2002 and 2010, including \$8,000 to his 2010 gubernatorial campaign.⁴² The firm has also donated more than \$5,500 in legal services to the governor's campaigns over the years, and played an especially high-profile role during his 2004 campaign for attorney general.⁴³

In September 2012, the *Philadelphia Inquirer* reported Drinker Biddle & Reath had received a \$75,000 contract to represent the governor's office in Pennsylvania's controversial voter ID case.⁴⁴ According to the *Inquirer*, on August 27, Gov. Corbett's office denied having any deal in place with an outside firm.⁴⁵ Gov. Corbett's office refused to answer questions regarding the issue for two weeks before finally acknowledging the deal and the amount that would be paid.⁴⁶

³⁴ *Id.*

³⁵ *Id.*

³⁶ Jan Murphy and John Beauge, Gov. Tom Corbett Will be Joined by Businessman John Moran on Trade Mission, *Patriot-News*, April 3, 2013; Jan Murphy, Gov. Tom Corbett Releases Names of Traveling Companions Participating in South American Trade Mission, *Penn Live*, April 3, 2013.

³⁷ Bunch, *Philadelphia Inquirer*, Mar. 6, 2013.

³⁸ Follow the Money, Contributions Lookup, Tom Corbett for Governor, 2009-2010.

³⁹ Bunch, *Philadelphia Inquirer*, Mar. 6, 2013.

⁴⁰ *Id.*

⁴¹ Cusick, *StateImpact/NPR*, Mar. 5, 2013; Bunch, *Philadelphia Inquirer*, Mar. 6, 2013.

⁴² Follow the Money, Contributions Lookup, Tom Corbett for Governor, 2009-2010; Bob Warner, Corbett Transparency May Have Its Limits, *Philadelphia Inquirer*, September 16, 2012.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Warner, *Philadelphia Inquirer*, Sept. 16, 2012.

The governor's office eventually said the deal had not been finalized until three hours after the newspaper's August 27 inquiry.⁴⁷

According to court documents, on September 7, 2012, the firm filed a 46-page brief on behalf of the state, the governor, and the secretary of state, defending Pennsylvania's voter identification law.⁴⁸

SCANDAL

Investigation of the Penn State Scandal

In February 2013, state Attorney General Kathleen Kane (D) appointed a special prosecutor, H. Geoffrey Moulton, Jr., to investigate Gov. Corbett's handling of the Penn State abuse scandal while attorney general.⁴⁹ Ms. Kane has suggested Gov. Corbett did not aggressively pursue charges and delayed prosecuting the case while running for governor in 2010, accusations Gov. Corbett denies.⁵⁰ Gov. Corbett's office first received complaints about then-assistant football coach Jerry Sandusky in 2009.⁵¹

The governor's critics pointed out current and previous board members of Mr. Sandusky's Second Mile Foundation and their businesses and family members had donated heavily to his campaigns dating back to 2004. Individuals and businesses associated with Second Mile contributed more than \$640,000 to Gov. Corbett's campaigns for attorney general and governor, including more than \$200,000 to his 2010 gubernatorial campaign.⁵²

In 2011, Gov. Corbett approved a \$3 million dollar grant for the Second Mile Foundation, even though at that point Mr. Sandusky's indictment appeared imminent.⁵³ Gov. Corbett was aware of the abuse investigation when he approved the grant, which was later put on hold.⁵⁴ In 2012, Mr. Sandusky was convicted of 45 counts of child sexual abuse and sentenced to 30 to 60 years in jail.⁵⁵

In the wake of the case, the National Collegiate Athletic Association (NCAA) announced it would penalize Penn State for its handling of the matter. Gov. Corbett sued the NCAA, arguing that the penalties were too severe and the NCAA was in violation of antitrust laws.⁵⁶ The lawsuit was dismissed in June 2013, after a federal judge said it did not meet the proper requirements for an antitrust case.⁵⁷

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ Trip Gabriel, Investigation to Focus on Governor's Handling of Penn State Abuse Case, *New York Times*, January 31, 2013; Pa. AG Picks Ex-Prosecutor to Lead Sandusky Probe, *Associated Press*, February 4, 2013.

⁵⁰ Gabriel, *New York Times*, Jan. 31, 2013.

⁵¹ *Id.*

⁵² Luke O'Brien, Past And Present Board Members of Sandusky's Charity and Their Businesses or Families Gave \$641,481.21 to Gov. Tom Corbett, *Deadspin.com*, November 16, 2011.

⁵³ Jon Schmitz, Corbett Approved Grant for Sandusky Charity, *Pittsburgh Post-Gazette*, November 16, 2011.

⁵⁴ *Id.*

⁵⁵ *Associated Press*, Feb. 4, 2013.

⁵⁶ Gabriel, *New York Times*, Jan. 31, 2013; Tackled on the Play: Corbett's NCAA Lawsuit is Found to Have No Merit, *Pittsburgh Post-Gazette*, June 9, 2013.

⁵⁷ Adam Rittenberg, Judge Dismisses Corbett's NCAA Lawsuit, *ESPN*, June 6, 2013.

PARTISAN POLITICS

Voter Disenfranchisement

Gov. Corbett pushed a controversial voter identification law which would have disenfranchised thousands of Pennsylvania voters, but the law was struck down just prior to Election Day in 2012. The law, signed by Gov. Corbett in March 2012, required Pennsylvania voters to present a valid, state-approved photo ID before voting.⁵⁸ Acceptable forms of identification include driver's licenses, military IDs, passports, government-issued employee IDs, photo IDs from state care facilities, and some college IDs.⁵⁹ One Republican lawmaker said the law would "allow Gov. [Mitt] Romney to win the state of Pennsylvania," prompting opponents to argue it had been passed for partisan reasons.⁶⁰ According to state data obtained by the *Philadelphia City Paper*, 43 percent of voters in Philadelphia, the state's largest urban Democratic center, would not qualify to vote under the law.⁶¹

In a press release issued after signing the bill, Gov. Corbett's office claimed 99 percent of the state's population "already have acceptable photo IDs," a figure not consistent with official government data.⁶² The governor also said voters could easily obtain proper identification because the Pennsylvania Department of Transportation (Penn DOT) would provide it free of charge.⁶³ Penn DOT's motor vehicle license centers are not located in every county, however, nor are they easily accessible by public transportation.⁶⁴ Gov. Corbett also repeatedly claimed the law was necessary to combat voter fraud even though state officials admitted there was no evidence of in-person voter fraud.⁶⁵

In July 2012, the Civil Rights Division of the U.S. Department of Justice began a formal investigation into whether the law discriminates against minorities.⁶⁶ Investigators also sought information on the state's efforts to educate Pennsylvanians about the law, as well as documents and records supporting Gov. Corbett's claim that 99 percent of the state's population already had valid identification.⁶⁷

⁵⁸ Amy Bingham, Pennsylvania Court Upholds Voter ID Law, *ABC News*, August 15, 2012.

⁵⁹ *Id.*; Ryan J. Reilly, Pennsylvania Governor Can't Recall Requirements of Voter ID Law He Signed, *Talking Points Memo*, July 26, 2012.

⁶⁰ *Id.*

⁶¹ Ryan J. Reilly, New GOP-Backed Voter ID Law Could Keep 43 Percent of Philly Voters from Polls, *Talking Points Memo*, July 25, 2012; Daniel Denvir, A Whopping 43 Percent of Philly Voters May Not Have Voter ID, According to New Data, *Philadelphia City Paper*, July 25, 2012; <https://docs.google.com/file/d/1qpQCcy54nPrZ6O535f-t3EFSTBYY4B-UdO0Lkxyop8h4WXP-qo0n-PUW5YyM/edit>.

⁶² Ryan J. Reilly, DOJ Investigates Pennsylvania Voter ID Law, *Talking Points Memo*, July 23, 2012; Press Release, Office of the Governor of Pennsylvania, Governor Corbett Signs Voter ID Bill to Require Photo Identification, March 14, 2012.

⁶³ Governor Corbett Defends Voter ID Law, *CBS Pittsburgh (KDKA)*, September 26, 2012.

⁶⁴ *Id.*

⁶⁵ *Id.*; Ryan J. Reilly, Ahead of Voter ID Trial, Pennsylvania Admits There's No In-Person Voter Fraud, *Talking Points Memo*, July 24, 2012; Judge Blocks Pennsylvania Voter ID Law for November Election, *CNN*, October 2, 2012.

⁶⁶ Reilly, *Talking Points Memo*, July 23, 2012.

⁶⁷ *Id.*

In October 2012, a Pennsylvania judge blocked state officials from enforcing the voter ID law during the 2012 elections.⁶⁸ Pennsylvania Commonwealth Judge Robert Simpson cited the likely disenfranchisement of eligible voters as the reason for granting a preliminary injunction against enforcement of the law.⁶⁹

⁶⁸ *CNN*, Oct. 2, 2012.

⁶⁹ *Id.*

NIKKI HALEY

Gov. Nikki Haley (R-SC) was elected in 2010. She is eligible for re-election in 2014, but has not said whether she will run again. Her inclusion stems from: (1) an investigation into her private-sector work while a member of the state legislature; (2) pay-to-play appointments; (3) accepting free trips on the private planes of donors, appointees, and people with business before the state; (4) flouting of transparency standards; (5) misuse of federal funds; and (6) advocating for new voter identification restrictions.

SCANDAL

Investigation into Private-Sector Work

Since becoming governor, Gov. Haley has faced an ethics investigation and lawsuit regarding her employment while a member of the state legislature. At issue are Gov. Haley's actions while working as a consultant for an engineering firm and a fundraiser for the Lexington Medical Center Foundation. John Rainey, a longtime Republican activist and fundraiser, filed a lawsuit in a South Carolina circuit court over the ethics issues in November 2011, and filed a complaint with the House Ethics Committee in March 2012.¹ Mr. Rainey alleged Gov. Haley illegally lobbied while in the legislature and exploited her position as state representative on behalf of her employers.² Gov. Haley has denied any wrongdoing and has repeatedly said Mr. Rainey's complaint was racially and politically motivated.³

In June 2010, while campaigning for governor, Gov. Haley disclosed tax records showing that, from 2007 until 2009, while a state representative, she had earned more than \$40,000 in consulting fees from Wilbur Smith Associates, an engineering firm with interests before the legislature and a history of receiving state contracts.⁴ A representative for Wilbur Smith said Gov. Haley had been hired because she was "a connected person who had access to a lot of folks and information."⁵ State law does not require state representatives to disclose information about their outside employment, and Gov. Haley had not previously disclosed the Wilbur Smith job.⁶ The law does bar legislators with an economic interest in a business from advocating for legislation that would benefit that company specifically.⁷ In 2007, Gov. Haley cited an unspecified conflict of interest and recused herself from voting on legislation that involved Wilbur Smith.⁸ She later decided against abstaining from a 2008 vote on the same matter.⁹

¹ Seanna Adcox, Lawsuit Asks If Haley Broke the Law, *Associated Press*, November 17, 2011; Seanna Adcox, South Carolina House Ethics Panel Clears Nikki Haley, *Associated Press*, June 29, 2012.

² Meg Kinnard, SC High Court Taking Up Haley Ethics Appeal, *Associated Press*, March 19, 2013; Gina Smith, Haley Cleared of Illegal Lobbying, *The State*, May 3, 2012.

³ Andrew Shain, Haley: 'I've Done Nothing Wrong', *The State*, June 29, 2012; Gina Smith, Haley Ethics Probe Shines Light on Dark Side of S.C. Politics, *The State*, June 17, 2012.

⁴ Peter Hamby, Haley Earned \$42,500 for Consulting Work While in Legislature, *CNN Political Ticker*, June 21, 2010.

⁵ *Id.*

⁶ *Id.*

⁷ Smith, *The State*, June 17, 2012.

⁸ Meg Kinnard, John Rainey Lawsuit Against Gov. Nikki Haley Dismissed, *Associated Press*, March 21, 2012; Smith, *The State*, May 3, 2012.

⁹ *Id.*

Throughout the ethics inquiry, Gov. Haley has said her consulting role was limited to finding the firm private-sector work and that she did not lobby for Wilbur Smith or assist the firm with procuring state contracts.¹⁰ However, both Gov. Haley and the firm's vice president acknowledged the governor did not secure any new projects for the firm over the course of her two years of employment.¹¹

Mr. Rainey's ethics complaint also alleged that while working for Lexington Medical Center from August 2008 through April 2010, Gov. Haley illegally lobbied on behalf of the hospital's plan for a heart surgery center and solicited donations from lobbyists and companies with business before the legislature.¹² The hospital's chief executive created the \$110,000-a-year fundraising position expressly for her, without securing the approval of the foundation's board.¹³ According to an analysis conducted by the newspaper *The State*, Gov. Haley earned 63 percent more than fundraisers at similarly sized charities, with 21 percent of the contributions and grants the foundation raised going to pay her salary.¹⁴

In at least one case, companies she oversaw as a legislator donated to the foundation. Payday lending companies and their trade associations have long supported Gov. Haley.¹⁵ In 2008, her state House campaign took in at least four donations totaling \$4,000.¹⁶ At the time, she chaired a House Labor, Commerce and Industry subcommittee which was responsible for regulating payday lenders, and that year, a Republican state senator leading an effort to pass tougher restrictions on payday lenders accused Gov. Haley of killing the reform bill.¹⁷ In May 2009, while Gov. Haley was raising money for the foundation, two payday lending companies contributed \$10,000 to sponsor an event.¹⁸ A spokesperson for one of the payday lending companies said Gov. Haley did not solicit its donation.¹⁹ However, neither company had previously donated.²⁰ In addition, Gov. Haley organized the event the companies sponsored.²¹

Mr. Rainey first filed his complaint with the South Carolina Fifth Circuit court, but a judge dismissed it, saying the issues raised in the case more properly belonged before the House Ethics Committee.²² Mr. Rainey then filed both an appeal of the circuit court's decision and a complaint with the House Ethics Committee.²³ In May 2012, the six-member House Ethics Committee found probable cause that a violation had occurred.²⁴ It quickly opened its hearing to the public, then dismissed the complaint moments later after a 5-1 party-line vote.²⁵ The

¹⁰ Shain, *The State*, June 29, 2012.

¹¹ *Id.*

¹² Smith, *The State*, May 3, 2012.

¹³ John O'Connor, How Haley Achieved Financial Health, *The State*, September 26, 2010.

¹⁴ *Id.*

¹⁵ Smith, *The State*, June 17, 2012.

¹⁶ O'Connor, *The State*, Sept. 26, 2010.

¹⁷ Smith, *The State*, June 17, 2012.

¹⁸ O'Connor, *The State*, Sept. 26, 2010.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Kinnard, *Associated Press*, Mar. 19, 2013; Andrew Shain, SC Supreme Court to Hear Nikki Haley Ethics Case, *The State*, January 30, 2013.

²³ *Id.*

²⁴ Smith, *The State*, May 3, 2012.

²⁵ *Id.*

committee chose not to call witnesses or review documents, and based its decision to dismiss on Mr. Rainey's complaint and Gov. Haley's written responses.²⁶ Later that month, after Democratic lawmakers asked for the probe to be reopened, the committee reheard the ethics complaint.²⁷ This time, the committee held hearings with testimony from witnesses, including Gov. Haley. As part of her defense, Gov. Haley's attorney argued that she had "not done anything that is not already the norm of members of the General Assembly."²⁸ In June 2012, the committee cleared the governor of the charges, though members of the committee said the case showed the state's ethics laws were too ambiguous and needed reform.²⁹

In March 2013, the South Carolina Supreme Court heard arguments regarding whether Mr. Rainey's complaint could be heard in state court.³⁰ In June 2013, the high court unanimously upheld the circuit court's decision to dismiss Mr. Rainey's lawsuit.³¹

CRONYISM

Pay-to-Play Appointments

In March 2011, *The State* reported that 26 of the 59 people Gov. Nikki Haley appointed to state boards or commissions were donors to her campaign.³² According to the newspaper's review of state campaign finance records, those 26 appointees contributed at least \$74,703 to Gov. Haley's gubernatorial campaign.³³

In March 2011, Gov. Haley appointed Thomas Cofield, who had contributed \$4,500 to her gubernatorial campaign, to the University of South Carolina's board of trustees.³⁴ Mr. Cofield replaced Darla Moore, who had donated \$70 million to the university.³⁵ News of the appointment sparked student protests and public scrutiny.³⁶ Gov. Haley initially said she replaced Ms. Moore because she wanted a "fresh set of eyes" on the board, but later said she replaced Ms. Moore for failing to return her phone calls and delaying a meeting.³⁷ In fact, correspondence obtained by *The State* through a public records request showed the governor decided to replace Ms. Moore with Mr. Cofield even before attempting to meet with her.³⁸

²⁶ *Id.*

²⁷ Matt Long, Panel Agrees to Rehear Haley Ethics Complaint, *South Carolina Radio Network*, May 15, 2012.

²⁸ Smith, *The State*, June 17, 2012.

²⁹ Robbie Brown, Ethics Inquiry Exonerates Governor in Lobbying, *New York Times*, June 29, 2012; Kinnard, *Associated Press*, Mar. 19, 2013.

³⁰ Shain, *The State*, Jan. 30, 2013.

³¹ Adam Beam, SC Supreme Court Dismisses Rainey Ethics Complaint Against Gov. Haley, *The State*, June 12, 2013.

³² John O'Connor, Haley's Appointments Include 26 Campaign Donors, *The State*, March 22, 2011.

³³ *Id.*

³⁴ Corey Hutchins, Nikki Haley's Pay-to-Play Politics, *The Nation*, June 15, 2011.

³⁵ *Id.*

³⁶ Seanna Adcox, USC Rally for Ousted Trustee Darla Moore, *Associated Press*, March 23, 2011; After a 'Crush of Calls,' Haley Administration Stumbles; 'Do We Want to do Anything?', *The State*, April 20, 2011.

³⁷ Yvonne Wenger, Gov. Nikki Haley Removes Darla Moore From USC Board, *Post and Courier*, March 15, 2011; Kathleen Parker, Has Nikki Haley Doomed Her Promising Career?, *Washington Post*, March 25, 2011.

³⁸ After a 'Crush of Calls', *The State*, Apr. 20, 2011.

In March 2011, Gov. Haley replaced six of the seven members of the influential Department of Health and Environmental Control (DHEC) board.³⁹ Four of the six appointees had contributed to her 2010 gubernatorial campaign.⁴⁰ Those appointees included one of her largest donors, Robert Kenyon Wells, who together with his wife and business gave Gov. Haley's 2010 campaign \$38,500.⁴¹ Gov. Haley appointed Allen Amsler, who had contributed \$3,000 to her campaign, to be the DHEC board's chairman.⁴²

The board's terms are staggered by law, and replacing that number of board members at once was unprecedented.⁴³ Gov. Haley was able to do so because former Gov. Mark Sanford (R) had allowed members to continue on the board even after their terms lapsed.⁴⁴ The outgoing chairman at the time said Gov. Haley might have been attempting to assert control over a department that is not directly under the governor's purview.⁴⁵

Private Flights from Donors, Appointees, and Special Interests

Gov. Haley took at least 17 flights on the private planes of people with potential business before the state between November 2010 and October 2011, and also accepted free flights from donors and appointees.⁴⁶ For example, Gov. Haley used a private jet owned by Lou and Bill Kennedy on several occasions.⁴⁷ Ms. Kennedy is the chief executive officer of Nephron Pharmaceuticals Corp. (Nephron), and her husband is a strategic consultant for the company.⁴⁸ The state Department of Commerce agreed to give Nephron \$4.5 million so the company would build a

³⁹ Sammy Fretwell, Nikki Haley Remakes DHEC Board, *Post and Courier*, March 24, 2011.

⁴⁰ *Id.*

⁴¹ Follow the Money, Contributions Lookup, Nikki Haley (contributions of Kenyon Wells, Cathy Wells, and Kenyon Wells & Associates, Inc.), 2010.

⁴² Follow the Money, Contributions Lookup, Nikki Haley, 2010.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Fretwell, *Post and Courier*, Mar. 24, 2011. In September 2011, the DHEC board refused to grant a permit requested by the Georgia Ports Authority to deepen the Port of Savannah. The Georgia authority needed DHEC's approval to dredge because the port is located on the Savannah River, which crosses the state border into South Carolina. The DHEC board said the planned dredging would create water-quality issues. On November 10, the DHEC abruptly reversed its decision and granted Georgia the permit. In response to questions, Gov. Haley said that after receiving a request from Georgia Gov. Nathan Deal (R), she asked Mr. Amsler, the chairman, to hear Georgia's appeal. In addition, Gov. Haley's flight records show she flew on the private planes of two DHEC board members while the Port of Savannah permit was under review. In December 2011, a state Senate committee held a hearing on the governor's role in the DHEC's approval of the permit. Gov. Haley refused to testify, but members of her staff were subpoenaed and cleared of exerting undue influence on the board. See Yvonne Wenger, Scrutiny Growing on Haley Port Role, *Post and Courier*, November 24, 2011; Seanna Adcox, Senate Panel Says Haley Did Not Pressure Board, *Associated Press*, December 8, 2011; Jody Barr, Haley Denies Influence in DHEC-Savannah Ports Decision, *WISTV*, November 30, 2011; Chris Gentilviso, Nikki Haley Port Controversy: South Carolina Governor Declines to Attend Hearing, Stands by Decision, *Huffington Post*, November 29, 2011.

⁴⁶ Yvonne Wenger and Renee Dudley, Landing New Jobs; Haley's Frequent Donated Plane Rides Raising Questions, *Post and Courier*, October 29, 2011. Gov. Haley apparently undervalued the cost of the private flights after receiving inconsistent and unclear advice from state ethics commission staff. The governor's office reported the cost of a commercial ticket, even though a flight on a private plane is more expensive. In response to news reports about Gov. Haley's flights, in November 2011, the state ethics commission voted 5-0 to require politicians to calculate the value of flights on private planes by multiplying the cost of operating the plane by the number of hours it is in the air. See Yvonne Wenger, Haley's Flight Rules Changing, *Post and Courier*, November 17, 2011.

⁴⁷ Wenger and Dudley, *Post and Courier*, Oct. 29, 2011.

⁴⁸ *Id.*

\$313 million drug manufacturing plant in Lexington County.⁴⁹ Ms. Kennedy contributed \$3,111 to Gov. Haley's 2010 campaign, and Ms. Kennedy and Nephron have contributed \$6,338 to her re-election campaign fund, including the value of flights reported as in-kind donations.⁵⁰ Some of the campaign contributions and flights came as Nephron negotiated with the state for incentives.⁵¹

Mr. Wells' appointment to the DHEC board came in April 2011, the same month the governor used his private plane to travel to a conference in Palm Beach, Fla.⁵² Mr. Amsler's appointment to the DHEC board also came in April, the same month the governor used his private plane to travel to North Carolina to visit a sick relative.⁵³

TRANSPARENCY

Lack of Transparency

Gov. Haley's office has a policy of only saving and archiving e-mails between the governor and the public.⁵⁴ Under the governor's policy — a holdover from Gov. Sanford's tenure — all other internal e-mails Gov. Haley sends and receives are permanently deleted.⁵⁵ South Carolina Press Association attorneys have said the policy may violate the state's open records law.⁵⁶ The press association and state historians say that the practice effectively destroys records essential to determining the governor's role in state affairs.⁵⁷ Gov. Haley's office says e-mail-storage space is limited and the governor rarely uses e-mail to conduct state business.⁵⁸ Instead, according to Gov. Haley's staffers, the governor conducts state business on the phone or during face-to-face meetings.⁵⁹

According to a column in the *Charleston City Paper*, in response to a Freedom of Information Act request, Gov. Haley's office claimed that she and her chief of staff did not communicate via e-mail between November 1 and November 30, 2011.⁶⁰

In another report published by *The State*, the newspaper found that Gov. Haley's office cited a similar rationale to explain why the governor made and received only 197 calls on her state-issued cellphone over a nine-month period that included heavy out-of-state travel.⁶¹ Critics questioned whether her infrequent use of the state-issued cellphone indicates that she is conducting state business on a private cellphone in order to avoid public scrutiny.⁶² Gov.

⁴⁹ *Id.*

⁵⁰ Jeff Wilkinson, Drug Firm Plans to Create 700 Jobs in Cayce; Haley/Williams Relationship Questioned, *The State*, October 29, 2011; Follow the Money, Contributions Lookup, Nikki Haley, 2010–2012.

⁵¹ *Id.*

⁵² Wenger and Dudley, *Post and Courier*, Oct. 29, 2011.

⁵³ *Id.*

⁵⁴ Gina Smith, Killing Emails, Cheating History?, *The State*, November 20, 2011.

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ Smith, *The State*, Nov. 20, 2011.

⁵⁹ *Id.*

⁶⁰ Chris Haire, Haley's Lawyer: No E-mails Between Nikki and Chief of Staff, *Charleston City Paper*, January 3, 2012.

⁶¹ Gina Smith, Review: Gov. Haley Seldom Uses State-Issued Cellphone, *The State*, November 13, 2011.

⁶² *Id.*

Haley's office contends that she uses her office phone, staffers' cellphones, or face-to-face meetings.⁶³

In response to criticism of the governor's records retention policy, in March 2012, Gov. Haley's office worked with the state Department of Archives and History to develop a new policy that requires preservation of e-mails with historic value.⁶⁴ However, press and watchdog groups continue to express concern that the policy gives the governor's office too much discretion in deciding which records to destroy.⁶⁵

PARTISAN POLITICS

Misuse of Federal Funds

In September 2011, the federal government awarded South Carolina a \$1 million Affordable Care Act (ACA) exchange-planning grant.⁶⁶ Using approximately \$305,000 of the money, Gov. Haley established a South Carolina Health Planning Committee to study whether or not the state should establish its own exchange.⁶⁷ However, even before the group met for the first time, Gov. Haley instructed members to identify ways to avoid implementation of the ACA.⁶⁸ In a March 2011 e-mail to her top advisors and the committee member who wrote the eventual report, Gov. Haley wrote that "the whole point of this commission should be to figure out how to opt out and how to avoid a federal takeover, NOT create a state exchange."⁶⁹ Unsurprisingly, the committee's eventual report recommended against establishing a state exchange.⁷⁰

The e-mails were released to the *Post and Courier* newspaper in response to a November 2011 public records request to the South Carolina Department of Health and Human Services.⁷¹ When the newspaper made the same request of Gov. Haley's office in May 2011, the e-mails were not included in the office's response.⁷²

Gov. Haley's e-mails raised questions about whether the state's study of exchange planning was predetermined.⁷³ In December 2011, U.S. Sen. Tom Harkin (D-IA) requested that the Office of Inspector General for the U.S. Department of Health and Human Services (HHS) investigate South Carolina's use of the grant, questioning whether the Haley administration "made improper use of taxpayer funds."⁷⁴ HHS conducted an investigation that, according to a statement released by Sen. Harkin, "found that the report prepared with the federal dollars will be of potential value to the federal government in helping to ensure that South Carolinians have access to affordable

⁶³ *Id.*

⁶⁴ Stephen Largen, Doubts Arise About Gov. Haley's Records Retention Policy, *Post and Courier*, April 8, 2012.

⁶⁵ *Id.*

⁶⁶ <http://kff.org/health-reform/state-profile/state-exchange-profiles-south-carolina/>.

⁶⁷ Renee Dudley, SC Gov. Haley Dictated Health Panel Finding, *Post and Courier*, December 14, 2011; Renee Dudley, Feds Clear Haley; Government: Disputed Report Will Be of Benefit, *Post and Courier*, March 15, 2012.

⁶⁸ Dudley, *Post and Courier*, Dec. 14, 2011.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Dudley, *Post and Courier*, Dec. 14, 2011.

⁷³ Christopher Weaver, Harkin Calls for South Carolina Health Funding Probe, *Wall Street Journal*, December 23, 2011.

⁷⁴ Press Release, Senate Committee on Health, Education, Labor and Pensions, Harkin Calls For Investigation into South Carolina Governor's Use of Taxpayer Dollars, December 22, 2011; Dudley, *Post and Courier*, Mar. 15, 2012.

quality health care through an insurance exchange.”⁷⁵ However, Sen. Harkin said, “[i]t continues to appear that the outcome of the commission was predetermined.”⁷⁶

Voter ID

In May 2011, Gov. Haley signed a voter identification bill into law.⁷⁷ Gov. Haley was a vocal proponent of the bill, which requires voters to present photo identification in order to vote.⁷⁸ The governor at one point said she would “take them to the DMV myself and help them get that picture ID.”⁷⁹ The bill could not immediately go into effect because, under Section 5 of the 1965 Voting Rights Act, South Carolina was legally required to get preclearance from the Department of Justice (DOJ) for changes in its election laws.⁸⁰ In December 2011, the DOJ blocked the state’s voter ID law, saying it would disenfranchise minority voters.⁸¹ In response, Gov. Haley publicly criticized the DOJ’s decision, and vowed to appeal.⁸² In October 2012, a panel of three federal judges upheld the law but delayed enforcement until 2013.⁸³ As a result of the Supreme Court’s decision in *Shelby v. Holder*, however, preclearance is no longer required and the law can take effect.⁸⁴

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ Gina Smith, Haley Signs Voter ID Bill into Law, *The State*, May 18, 2011.

⁷⁸ *Id.*; Yvonne Wenger, Debate Rages over South Carolina’s Voter-ID Law, *Post and Courier*, May 19, 2011.

⁷⁹ Alex Seitz-Wald and Ian Millhiser, Will Gov. Nikki Haley Personally Drive South Carolina’s 178,000 Disenfranchised Voters to the DMV?, *ThinkProgress*, July 15, 2011.

⁸⁰ Matt Loeb, Feds Put Hold on S.C. Voter ID Law, *National Journal*, August 31, 2011.

⁸¹ Adam Beam, U.S. Blocks S.C. Voter ID Law; Haley: Decision Outrageous, *The State*, December 24, 2011.

⁸² *Id.*

⁸³ South Carolina Voter ID Law Upheld by Federal Court, but Delayed, *Associated Press*, October 10, 2012.

⁸⁴ Adam Liptak, Supreme Court Invalidates Key Part of Voting Rights Act, *New York Times*, June 25, 2013.

SUSANA MARTINEZ

Gov. Susana Martinez (R-NM) was elected in 2010. She is running for re-election in 2014. Her inclusion stems from: (1) using state resources for political purposes; (2) investigations into the awarding of a state contract to a large campaign donor; (3) using private e-mail for public business; (4) improperly withholding public records; and (5) improperly interfering with the labor relations board.

PARTISAN POLITICS

Using a State Agency for Political Purposes

In 2012, Jay McCleskey, Gov. Martinez's political advisor and the manager of Susana PAC, the governor's political action committee (PAC), verbally asked Public Education Department (PED) spokesman Larry Behrens for a list of all non-union teachers in the state and their e-mail addresses.¹ Mr. McCleskey was looking for a way to counter union material regarding the administration's proposed education reforms.²

Mr. Behrens, a Martinez appointee, used his personal e-mail address when he responded to the request on May 2, 2012.³ His e-mail made it clear the department had plowed considerable resources into finding the e-mail addresses and creating lists of them.⁴ "We have no master list of all teacher e-mails so IT went through websites school-by-school and copied the publicly available staff e-mails," he wrote, attaching the spreadsheet with the results.⁵ Mr. Behrens said he had requested a list from the department's budget staff of school districts with unions or collective bargaining agreements, then matched the budget division information with the staff e-mails to compile the lists.⁶ Michael Archibeque, PED's chief information officer, later said it had taken the information technology department two days to compile the lists.⁷

Mr. Behrens sent his response to the private or campaign e-mail addresses of Mr. McCleskey and four Martinez administration officials: Chief of Staff Keith Gardner, then-Communications Director Scott Darnell, Education Secretary-designate Hanna Skandera, and Ms. Skandera's chief of staff, Christine Stavem.⁸ Ms. Skandera forwarded the e-mail to Gov. Martinez's campaign e-mail account.⁹ Administration officials later said the e-mail address Ms. Skandera

¹ Editorial, Education Department Emails are Troubling, *Albuquerque Journal*, June 17, 2012; Joey Peters, Mysterious Email Sent to Republicans Calls Out Jay McCleskey, Cites SFR, *Santa Fe Reporter*, December 6, 2012; Steve Terrell, Agency Official Takes Heat over List of Teachers' Emails, *Santa Fe New Mexican*, June 13, 2012.

² Thomas J. Cole, Skandera in Loop on Nonunion Email List, *Albuquerque Journal*, July 14, 2012.

³ <http://www.scribd.com/doc/96691033/Email-on-Use-of-Gov-t-Employees-for-Political-Purposes>; James Monteleone and Colleen Helid, Campaign Guru Finds Unwanted Limelight, *Albuquerque Journal*, June 17, 2012.

⁴ *Id.*

⁵ <http://www.scribd.com/doc/96691033/Email-on-Use-of-Gov-t-Employees-for-Political-Purposes>.

⁶ *Id.*

⁷ Cole, *Albuquerque Journal*, July 14, 2012.

⁸ <http://www.scribd.com/doc/96691033/Email-on-Use-of-Gov-t-Employees-for-Political-Purposes>; Dan Boyd, AG Probe Sought over Email List, *Albuquerque Journal*, June 15, 2012; Rob Nikolewski, Breaking News: Rep. Keith Gardner Becomes New Gov's Chief of Staff, *Capitol Report New Mexico*, November 24, 2010.

⁹ Cole, *Albuquerque Journal*, July 14, 2012.

used was inactive, and Gov. Martinez did not read the e-mail until after she saw news stories about the matter.¹⁰

An anti-Martinez union-affiliated PAC, Independent Source PAC, obtained the e-mails and publicly released them.¹¹ Mr. Behrens said he had simply made a mistake in using his personal e-mail address to respond to a request for public information, calling it an “oversight.”¹² Mr. Behrens also maintained the list of all teacher e-mail addresses created by the IT department had not been created in response to Mr. McCleskey’s request.¹³ Instead, he said the department had needed the e-mail addresses to contact employees for its own purposes.¹⁴

Mr. McCleskey said he had merely been seeking publicly available information.¹⁵ It appears, however, that other requests requiring such custom-tailored responses were routinely denied.¹⁶ Mr. McCleskey’s firm submitted a follow-up request seeking home addresses for teachers in May 2013, and PED denied it.¹⁷

State Attorney General Gary King’s (D) office was investigating whether Gov. Martinez’s administration violated New Mexico’s Governmental Conduct Act, which prohibits using state resources for political purposes.¹⁸ The status of the investigation is unclear.¹⁹

¹⁰ *Id.*

¹¹ Dan Boyd, PED Culled Teacher List, *Albuquerque Journal*, June 13, 2012. Independent Source PAC said it obtained the e-mail legally from a source who bought the governor’s campaign website domain through an auction after the domain registration expired. In May 2013, however, Jamie Estrada, a former Martinez campaign manager, was indicted on computer intrusion and false statement charges. The New Mexico U.S. Attorney’s Office said that in July 2011, Mr. Estrada used an alias to renew the registration for the Martinez campaign Internet domain and changed the settings so incoming e-mail messages were diverted to an e-mail account he controlled. The indictment of Mr. Estrada includes the dates and descriptions of a dozen e-mails Mr. Estrada allegedly intercepted. Many appear personal in nature and none appear to be from Mr. Behrens. Search warrant affidavits related to the case show federal agents also found e-mails stolen from the campaign website domain on the computers of others, including a Democratic consultant, Jason Loera, who was subsequently arrested on child pornography charges. In a statement released after Mr. Estrada was indicted, Michael Corwin, head of Independent Source PAC, noted that the e-mails listed in the indictment were not the same as the ones released by Independent Source PAC and said he would “continue to protect his source.” Representatives of the Martinez campaign said they had believed the accounts inactive. In June 2013, Mr. Estrada pled not guilty. See Dan Boyd, PAC: Emails Obtained Legally, *Albuquerque Journal*, September 19, 2012; *United States v. Jamie Estrada*, 1:13-cr-01877 (D.N.M. 2013); Press Release, U.S. Attorney’s Office, District of New Mexico, Governor Martinez’s Former Campaign Manager Indicted on Computer Intrusion and False Statement Charges, May 30, 2013; Mike Gallagher, Feds: Martinez E-mails Were Hijacked, *Albuquerque Journal*, May 31, 2013; Milan Simonich, Not Guilty Plea for NM Gov. Susana Martinez’s Former Campaign Staffer, *El Paso Times*, June 18, 2013; Ex-Campaign Staffer for New Mexico Gov. Indicted in Email Scandal, *Associated Press*, May 30, 2013; Alexa Schirtzinger, Former Martinez Campaign Staffer Jamie Estrada Indicted for Allegedly Intercepting Emails, *Santa Fe Reporter*, May 30, 2013; Mike Gallagher, Email Theft Probe Went Down Two Paths, *Albuquerque Journal*, June 6, 2013.

¹² Boyd, *Albuquerque Journal*, June 13, 2012.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Boyd, *Albuquerque Journal*, June 15, 2012.

¹⁷ Boyd, *Albuquerque Journal*, June 13, 2012.

¹⁸ James Monteleone, AG’s Opinion Sought After Skandera Hearings, *Albuquerque Journal*, March 13, 2013; Susan Montoya Bryan, NM Attorney General Criticizes GOP Records Request, *Associated Press*, July 7, 2012; Boyd, *Albuquerque Journal*, June 15, 2012.

CRONYISM

Involvement in a State Contract

The Federal Bureau of Investigation (FBI) and state agencies appear to be investigating the circumstances around the awarding of a lucrative state lease to a local racetrack and casino.²⁰ The Downs at Albuquerque, a racetrack and casino known as a racino, is located on property managed by EXPO New Mexico, a state enterprise agency that oversees the state fair, and the State Fair Commission.²¹

In December 2011, the Downs won a new 25-year state lease that could be worth more than a billion dollars,²² but critics questioned the relationship between representatives of the Downs and Gov. Martinez's staff and appointees.²³ Federal investigators have interviewed Gov. Martinez's former campaign finance director, among others.²⁴ Gov. Martinez and state officials have said the bidding process was fair.²⁵

Between June 2010 and January 2011, donors connected to the Downs contributed \$75,000 to Gov. Martinez's gubernatorial campaign.²⁶ In the summer of 2011, donors connected to the Downs contributed an additional \$10,000 to Susana PAC.²⁷ The donors included Bill Windham, a part owner who became company president in 2011.²⁸ The Downs also hired Darren White, who at one point filmed a Martinez campaign ad and had been appointed by Gov. Martinez to the state Judicial Standards Commission,²⁹ to help put together the Downs' lease proposal.³⁰

The Downs has been criticized for failing to maintain the property, and at one point, the state filed a lawsuit against the Downs for falling \$1 million behind on payments.³¹ A 2011 Legislative Finance Committee audit of the state fair found the Downs was not meeting all of its obligations. The audit revealed the state fair agency was essentially insolvent, relied heavily on the Downs lease payments for cash flow, suffered from a lack of strategic planning, and had

¹⁹ Monteleone, *Albuquerque Journal*, Mar. 13, 2013; Mike Gallagher, Hijacked Emails Fueled Political Battle, *Albuquerque Journal*, June 16, 2013.

²⁰ Justin Horwath and Joey Peters, Downs Doings, *Santa Fe Reporter*, May 29–June 4, 2013.

²¹ *Id.*; <http://exponm.com/go-expo/about/who-we-are-what-we-do/>.

²² Horwath and Peters, *Santa Fe Reporter*, May 29–June 4, 2013.

²³ Joey Peters, Leaked, *Santa Fe Reporter*, July 4–July 10, 2012.

²⁴ Mike Gallagher, Fundraiser for GOP Talked to FBI Agents About Downs Deal, *Albuquerque Journal*, June 4, 2013.

²⁵ *Id.*

²⁶ Joey Peters, It's... "Trouble at the Ol' Racing", *Santa Fe Reporter*, August 22–August 28, 2012. Donors connected to the Downs also contributed heavily to Gov. Martinez's 2010 opponent, Diane Denish. See Charles D. Brunt and Sean Olson, Downs Interests Gave Gov. \$70,000, *Albuquerque Journal*, November 8, 2011.

²⁷ Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012.

²⁸ Thomas Cole, Political Ties and the Downs, *Albuquerque Journal*, December 10, 2011.

²⁹ *Id.*

³⁰ Charles D. Brunt, Former Sheriff is Now GM of Racino, *Albuquerque Journal*, July 19, 2012; Charles D. Brunt, Downs Racino Hires White, *Albuquerque Journal*, August 12, 2011.

³¹ Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012; Horwath and Peters, *Santa Fe Reporter*, May 29–June 4, 2013; Report to the Legislative Finance Committee, *New Mexico State Fair Program Evaluation*, Report No. 11-13, October 20, 2011.

failed to manage the Downs contract properly.³² The audit concluded the request for proposals (RFP) was rushed because of poor strategic planning and because EXPO could not afford to do without the Downs lease payments if the current lease lapsed before it had secured replacement funding.³³

A few months after Gov. Martinez assumed office, she appointed Dan Mourning to head the EXPO.³⁴ In July 2011, Mr. Mourning issued an RFP for the property.³⁵ The proposals were due in 30 days, an unusually short period that some state fair commissioners later criticized.³⁶ EXPO did not advertise nationally and only put an ad on its website and in the Sunday *Albuquerque Journal*.³⁷ EXPO did not send out any notices, hold press conferences, or advertise in trade journals.³⁸ Only two companies, the Downs and Laguna Development Corp., submitted proposals.³⁹ Gov. Martinez herself appointed a three-member evaluation committee to review the RFPs and select the best bid.⁴⁰

Despite the racino's past problems, the evaluation committee gave the Downs a perfect score for "management expertise."⁴¹ In September 2011, the evaluation committee chose the Downs bid as the winner and Mr. Mourning began to work with the racino's management on a contract.⁴² Some state fair commissioners voiced objections. Two commissioners, Charlotte Rode and Benny Roybal, said they were concerned commissioners were not allowed to review the RFPs before being asked to vote on a lease that had already been negotiated.⁴³ Critics said the terms of the new deal were too favorable to the Downs, since the new lease would allow it to pay the state roughly \$500,000 less than it paid in 2010.⁴⁴

On November 9, 2011, the State Fair Commission delayed a scheduled vote on the Downs deal because the deal lacked the support needed to pass.⁴⁵ Lawyers for the Downs met with only one commissioner, Kenneth Goff, and changed language in the agreement to address his concerns.⁴⁶ The commission then held a surprise vote on November 21, 2011 and approved the lease in a split 4-3 vote, with Mr. Goff the key vote in favor.⁴⁷ Ms. Rode said the process "violated the public trust."⁴⁸

³² *Id.*

³³ *Id.*

³⁴ Charles D. Brunt, Expo Signs Extension with Downs Racino, *Albuquerque Journal*, June 9, 2011.

³⁵ Charles D. Brunt, State Fair Officials Seek Bids for Downs, *Albuquerque Journal*, July 28, 2011.

³⁶ Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012; Charles D. Brunt, EXPO Casino Selection Rushed?, *Albuquerque Journal*, October 12, 2011.

³⁷ Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012; Thomas J. Cole, No Jackpot for Bucking Gov on Casino Deal, *Albuquerque Journal*, December 3, 2011.

³⁸ Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012.

³⁹ Charles D. Brunt, Downs, Laguna Make EXPO Bids, *Albuquerque Journal*, August 26, 2011.

⁴⁰ *Id.*; Brunt and Olsen, *Albuquerque Journal*, Nov. 8, 2011.

⁴¹ Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012.

⁴² Brunt, *Albuquerque Journal*, Oct. 12, 2011; Brunt and Olsen, *Albuquerque Journal*, Nov. 8, 2011.

⁴³ Brunt, *Albuquerque Journal*, Oct. 12, 2011.

⁴⁴ Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012.

⁴⁵ Brunt and Olsen, *Albuquerque Journal*, Nov. 8, 2011; Charles D. Brunt, Downs Deal Gets Approval, *Albuquerque Journal*, November 22, 2011.

⁴⁶ Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012.

⁴⁷ Brunt, *Albuquerque Journal*, Nov. 22, 2011; Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012.

⁴⁸ Cole, *Albuquerque Journal*, Dec. 3, 2011.

The state board of finance, chaired by Gov. Martinez, still had to give final approval.⁴⁹ Tom Tinnin, a former chair of the State Fair Commission who had been appointed to the finance board by Gov. Martinez, met with the governor to voice concerns over the process.⁵⁰ He said she told him she would take it personally if he publicly criticized her staff's actions in the matter.⁵¹ Immediately after the meeting with Gov. Martinez, Mr. Tinnin resigned.⁵² On December 20, 2011, the finance board approved the Downs deal unanimously except for one abstention.⁵³

A few weeks later, in January 2012, the losing bidder, Laguna Development Corp., filed a protest with the state purchasing division.⁵⁴ The formal protest alleged the Downs "may have had access to the contents of [Laguna Development's] proposal prior to submitting its best and final offer," and "was allowed improper involvement in the procurement process."⁵⁵ In April 2012, the state purchasing agent reviewing the protest recommended denying it, saying the process complied with the law.⁵⁶ In May 2012, Mr. Mourning accepted the purchasing agent's recommendation and denied the protest.⁵⁷

In June 2012, however, leaked e-mails distributed by Independent Source PAC showed several e-mails from Pat Rogers, a lawyer for the Downs and a prominent Republican, to two of Gov. Martinez's staffers.⁵⁸ The e-mails were addressed to then-Deputy Chief of Staff Ryan Cangioli's campaign e-mail account and Mr. McCleskey's consulting firm e-mail address.⁵⁹ Gov. Martinez's office said Mr. Cangioli never received the e-mails because the campaign account was inactive, and Mr. Cangioli did not meet with Mr. Rogers.⁶⁰

In June 2012, Ms. Rode filed a complaint with the Office of the State Auditor asking for an investigation into the Downs deal.⁶¹ The office later confirmed it was investigating the matter.⁶² In August 2012, the state attorney general's office requested interviews with six state fair commissioners as part of its own inquiry into the Downs deal.⁶³

In May 2013, the *Santa Fe Reporter* reported the FBI had been interviewing former Martinez campaign staffers about the Downs deal.⁶⁴ The Martinez camp pushed back against the reports, saying the governor had requested an investigation into the leaked e-mails and the FBI was

⁴⁹ Thomas J. Cole, *Downs Deal Smells of Money*, *Albuquerque Journal*, November 26, 2011.

⁵⁰ Thomas J. Cole, *Gov. Appointee Quits over Racino Lease*, *Albuquerque Journal*, November 19, 2011.

⁵¹ *Id.*

⁵² *Id.*

⁵³ Charles D. Brunt and Mike Gallagher, *Downs Lease Approved*, *Albuquerque Journal*, December 21, 2011.

⁵⁴ Charles D. Brunt, *Downs Denies It Had Leaked Info for Lease*, *Albuquerque Journal*, January 14, 2012.

⁵⁵ *Id.*

⁵⁶ Charles D. Brunt, *Laguna Loses Round on Racino Lease Fight*, *Albuquerque Journal*, April 12, 2012.

⁵⁷ Charles D. Brunt, *Downs Lease Protest Denied*, *Albuquerque Journal*, May 16, 2012.

⁵⁸ Dan Boyd, *Downs Lawyer Wanted to Talk*, *Albuquerque Journal*, June 28, 2012.

⁵⁹ *Id.*

⁶⁰ *Id.*; James Monteleone and Dan Boyd, *Commissioner Seeks Downs Lease Inquiry*, *Albuquerque Journal*, July 3, 2012.

⁶¹ *Id.*

⁶² Horwath and Peters, *Santa Fe Reporter*, May 29–June 3, 2013.

⁶³ Peters, *Santa Fe Reporter*, Aug. 22–Aug. 28, 2012.

⁶⁴ Horwath and Peters, *Santa Fe Reporter*, May 29–June 3, 2013.

asking questions about the Downs deal only as part of that.⁶⁵ The indictment of former Martinez campaign manager Jamie Estrada, however, which describes the allegedly stolen e-mails, does not include any related to the Downs deal.⁶⁶

Mr. Estrada pled not guilty, and has said he did nothing wrong.⁶⁷ After Mr. Estrada was charged, Andrea Goff, Gov. Martinez's former finance director and the daughter-in-law of Mr. Goff, the state fair commissioner, said she had been interviewed by the FBI about the Downs contract and the agents' questions were not related to the Estrada indictment.⁶⁸ In addition, Jerry Todd Wertheim, a lawyer for Anissa Ford, a former Gov. Martinez campaign staffer who is now a witness in the e-mail case, said Ms. Ford was questioned separately about the Downs matter, by a different set of agents than the team investigating Mr. Estrada.⁶⁹ "It was clear there was no linkage between the e-mail investigation and the Downs investigation," Mr. Wertheim said.⁷⁰ A spokesman for Gov. Martinez described Ms. Ford as a disgruntled former staff member who was angry because she was not offered a job after the campaign ended.⁷¹

TRANSPARENCY

Use of Private E-mail Accounts for Public Business

The Martinez administration has been repeatedly dogged by allegations of using private e-mail accounts to conduct public business, such as in the PED and Downs matters. In response, in June 2012, the governor issued a new policy explicitly directing her employees to use official e-mail accounts for all state business.⁷²

A few days after the governor issued the policy, Lupe Martinez, the governor's former corrections secretary, said in an affidavit that during a 2011 cabinet meeting, Mr. Gardner, the governor's chief of staff, had told her and others to use private e-mail whenever possible so their messages would not be made public.⁷³ In addition, Ms. Martinez said the governor was present at the meeting when Mr. Gardner gave his directive.⁷⁴ Ms. Martinez said she complied with the instructions and used her private e-mail account and BlackBerry Messenger to send messages to the governor's office.⁷⁵

Ms. Martinez gave the affidavit as part of her boyfriend's wrongful termination case against the state.⁷⁶ The investigation into Ms. Martinez's boyfriend had led to her resignation.⁷⁷ Mr.

⁶⁵ Gallagher, *Albuquerque Journal*, June 16, 2013.

⁶⁶ *United States v. Jamie Estrada*, 1:13-cr-01877 (D.N.M. 2013).

⁶⁷ Simonich, *El Paso Times*, June 18, 2013.

⁶⁸ Gallagher, *Albuquerque Journal*, June 4, 2013.

⁶⁹ Gallagher, *Albuquerque Journal*, June 6, 2013.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Dan Boyd, *Charges Fly over Emails*, *Albuquerque Journal*, June 20, 2012.

⁷³ *Id.* Ms. Martinez is not related to the governor.

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Boyd, *Albuquerque Journal*, June 20, 2012.

⁷⁷ *Id.*

Gardner called Ms. Martinez's allegation "completely false," and two other Cabinet members said they had never heard of such a directive.⁷⁸

Shortly thereafter, a progressive political group released a May 2011 e-mail sent from a private account belonging to Mr. Cangioli to a personal e-mail address for Jon Barela, the state economic development secretary.⁷⁹ Mr. Cangioli was asking for information regarding department operations and a jobs report on behalf of Mr. Gardner.⁸⁰ Mr. Barela said he forwarded the e-mail to his official state e-mail account before following up on it.⁸¹ In addition, the group released an e-mail to the governor's office from the private account of Veronica Gonzales, the cultural affairs secretary.⁸² The group said it had obtained the e-mails through a public records request.⁸³

Questions flared up again in September 2012, when Sam Bregman, head of the state Democratic party and the lawyer representing Ms. Martinez's boyfriend in his case against the state, released a recording of a private conversation involving Mr. Gardner.⁸⁴ Mr. Gardner, discussing a sexual assault case that apparently involved members of his family, not official business, was apparently recorded without his knowledge,⁸⁵ stating, "I never email on my state email, anything that can come back and bite my ass. It's all done offline....It's all done on different stuff."⁸⁶ Mr. Gardner and Gov. Martinez said the recording was misleading, and it was unethical for Mr. Bregman to release it.⁸⁷

Meanwhile, in July 2012, Independent Source PAC had turned over hundreds of documents to the attorney general's office.⁸⁸ In December 2012, in response to a public records request from the *Santa Fe Reporter*, Mr. King's office released the documents, including nearly 600 pages of e-mails.⁸⁹ Many had already been released by Independent Source PAC and others were purely personal, including confirmation of the governor's online shopping orders.⁹⁰ Mr. King said he was obligated to release the records in response to the newspaper's request.⁹¹ Gov. Martinez's office called it "a blatantly political maneuver," and said the release compromised the then-ongoing FBI investigation into the stolen e-mails.⁹²

⁷⁸ *Id.*

⁷⁹ James Monteleone and Deborah Baker, N.M. Politicos Feud over Email Ethics, *Albuquerque Journal*, June 23, 2012.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ Monteleone and Baker, *Albuquerque Journal*, June 23, 2012.

⁸⁴ Dan Boyd and James Monteleone, Release of Recording Fuels N.M. Ethics Feud, *Albuquerque Journal*, September 6, 2012.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ James Monteleone, AG King Releases Martinez Emails, *Albuquerque Journal*, December 20, 2012.

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² Monteleone, *Albuquerque Journal*, Dec. 20, 2012.

Withholding Public Records

The *Associated Press* requested records from several agencies for expenses and overtime paid to officers assigned to Gov. Martinez's security detail in August, September, and October 2012, a period shortly before the 2012 elections.⁹³ Several agencies denied the requests, saying releasing detailed information could compromise the governor's security.⁹⁴ Instead, state officials compiled summaries of costs.⁹⁵ New Mexico Attorney General King has said the requested records must be released.⁹⁶

In addition, the administration resisted releasing records detailing expenses connected to a September 2011 alligator hunting trip to Louisiana taken by Gov. Martinez's husband, Chuck Franco, and the governor's office misled the public about who paid for the trip.⁹⁷ The Martinez administration repeatedly said Mr. Franco paid for his own expenses and two state police officers were assigned to travel with him for security.⁹⁸ In response to repeated requests for records related to the trip and questions about it, however, the governor's office eventually acknowledged the family of one of the state police officers paid for much of the hunting trip.⁹⁹ The two state police officers initially planned the hunting trip as a vacation, but when Mr. Franco decided to go along, the officers instead were assigned to act as his security detail and received overtime and holiday pay.¹⁰⁰ The three men made the drive in a state-owned vehicle.¹⁰¹ Both officers brought their 12-year-old sons on the trip, though the state police chief said the boys were cared for by family in Louisiana.¹⁰²

PRESSURING PUBLIC OFFICIALS

Improper Intervention

The state Public Employee Labor Relations Board (PELRB) oversees collective bargaining between government agencies and workers, and is also responsible for hearing complaints about possible violations.¹⁰³ State law requires the governor to appoint one labor-supported member,

⁹³ Jeri Clausing, NM Gov. Susana Martinez Declines to Release Travel Records, *Associated Press*, June 20, 2013; James Monteleone, Open-Government Group Joins Security Detail Records Quest, *Albuquerque Journal*, June 26, 2013.

⁹⁴ *Id.*; Clausing, *Associated Press*, June 20, 2013.

⁹⁵ *Id.*; Monteleone, *Albuquerque Journal*, June 26, 2013.

⁹⁶ Clausing, *Associated Press*, June 20, 2013.

⁹⁷ *Id.*; James Monteleone, Travel Records for First Gentleman's Trip are Public, *Albuquerque Journal*, January 4, 2013; Steve Terrell, State Still Mum on Franco's Hunting Trip, *Santa Fe New Mexican*, June 19, 2013; Justin Horwath, 'A Good Old Time': Host Discloses Details About Franco Trip, *Santa Fe Reporter*, July 9, 2013.

⁹⁸ *Id.*; James Monteleone, Claims Against Governor Prove Wrong, *Albuquerque Journal*, April 19, 2012; Monteleone, *Albuquerque Journal*, Jan. 4, 2013; Terrell, *Santa Fe New Mexican*, June 19, 2013.

⁹⁹ Barry Massey, Governor Details Husband's Alligator Hunt, *Associated Press*, July 5, 2013.

¹⁰⁰ *Id.*; James Monteleone, Trip Details Disclosed; First Gent Joined State Police on Hunt, *Albuquerque Journal*, July 6, 2013.

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ <http://www.pelrb.state.nm.us/faq.php>; Thomas Cole, Labor Board Dispute Heads Back to Court, *Albuquerque Journal*, August 10, 2011.

one recommended by public employers, and one recommended jointly by the labor and public employer members to the PELRB.¹⁰⁴

On February 5, 2011, about a month after taking office, Gov. Martinez fired the PELRB's executive director, Pam Gentry, and began interviewing replacements.¹⁰⁵ A few weeks later, Gov. Martinez dismissed the board's three members.¹⁰⁶ A Gov. Martinez spokesman said that the dismissals were done "as part of an ongoing review of boards, commissions and appointments."¹⁰⁷

On March 16, 2011, labor unions filed a lawsuit in the New Mexico Supreme Court against Gov. Martinez, claiming she exceeded her authority in firing the board members and the executive director, who is typically hired by the board.¹⁰⁸ The lawsuit specifically asked for the reinstatement of the labor-backed member, John Boyd, and the jointly backed member, Duff Westbrook.¹⁰⁹ The lawsuit noted that at the time of the firings, there were 43 complaints waiting for processing, including 17 against the governor's office.¹¹⁰

On April 13, 2011, the New Mexico Supreme Court unanimously voted to reinstate Mr. Boyd and Mr. Westbrook, saying the PELRB must remain outside the control of the governor since it deals with complaints against the executive branch.¹¹¹

Mr. Boyd's term expired July 1, 2011.¹¹² The majority of unions wanted Gov. Martinez to reappoint Mr. Boyd to the board.¹¹³ Instead, Gov. Martinez appointed R.E. "Bart" Bartosiewicz to replace Mr. Boyd, saying he had been recommended by a local police union.¹¹⁴ In August 2011, the unions filed another lawsuit in an attempt to force Mr. Boyd's reappointment.¹¹⁵ The lawsuit said the police union's parent organization had revoked the recommendation for Mr. Bartosiewicz in favor of Mr. Boyd.¹¹⁶ In February 2012, a district court judge ruled Mr. Bartosiewicz could be appointed, and the state Supreme Court declined to overturn the ruling.¹¹⁷

¹⁰⁴ Deborah Baker, *Unions Challenge Martinez*, *Albuquerque Journal*, March 17, 2011.

¹⁰⁵ *Id.*; Deborah Baker, *High Court Orders 2 Reinstated to Labor Board*, *Albuquerque Journal*, April 14, 2011.

¹⁰⁶ Baker, *Albuquerque Journal*, Mar. 17, 2011.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ Baker, *Albuquerque Journal*, Apr. 14, 2011.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² Baker, *Albuquerque Journal*, Mar. 17, 2011.

¹¹³ Thomas J. Cole, *Labor Dispute Heads Back to Court*, *Albuquerque Journal*, August 10, 2011; Deborah Baker, *Governor Wins Court Fight over Labor Board Appointee*, *Albuquerque Journal*, February 9, 2012.

¹¹⁴ Cole, *Albuquerque Journal*, Aug. 10, 2011.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ Baker, *Albuquerque Journal*, Feb. 9, 2012; *Court Rules in Favor of Governor in Union Dispute*, *Associated Press*, February 9, 2012; Barry Massey, *Martinez Wins Battle Over NM Labor Board Selection*, *Associated Press*, March 14, 2012.

PAT MCCRORY

Gov. Pat McCrory (R-NC) was elected in 2012. He will be up for re-election in 2016. His inclusion stems from appointing top donors to important state government positions and advocating for new voter identification restrictions.

CRONYISM

Appointing Donors

Art Pope, a retail industry millionaire and a former state legislator,¹ has had a significant impact on North Carolina electoral politics. Through a series of family foundations and companies, Mr. Pope has contributed more than \$30 million to conservative think tanks, section 501(c)(4) nonprofit groups, and other political and advocacy groups in North Carolina.² In 2010, three outside groups, Civitas Action, Real Jobs NC, and Americans for Prosperity, all generously backed by Mr. Pope, spent \$2 million attacking Democrats in two dozen North Carolina state legislative races.³ Mr. Pope and the Pope family also contributed \$240,000 directly to candidates in those races.⁴ Since its founding in 2005, the John William Pope Foundation, chaired by Mr. Pope, has given Civitas Institute, the parent foundation of Civitas Action, more than \$8 million — about 97 percent of the group's total income — and Mr. Pope sat on the board of directors of all three groups.⁵ Mr. Pope was until recently one of three national directors of Americans for Prosperity.⁶ During the 2010 elections, Mr. Pope's Variety Wholesalers contributed \$36,500 to the Republican State Leadership Committee.⁷ That group gave \$1.2 million to Real Jobs NC, which ran attack ads and sent several mass mailings in competitive state legislative races.⁸ Variety Wholesalers gave \$200,000 to Real Jobs NC during the 2010 election cycle as well.⁹

During North Carolina's recent redistricting, Republican legislators appointed Mr. Pope a co-counsel to the legislative leadership, allowing him to give direct instructions to the legislators

¹ Paul Abowd, Nonprofit Profile: Americans for Prosperity, *Center for Public Integrity*, June 21, 2012; Jane Mayer, State for Sale, *New Yorker*, October 10, 2011; <http://www.archive.org/stream/northcarolinaman19911992nort#page/313/mode/1up>.

² Rob Christensen, Art Pope: a One-Man Republican Equalizer, *News & Observer*, October 27, 2010; Chris Kromm, The Art Pope Empire: Media Outlets, Think Tanks and Election Machines, *Indy Week*, March 9, 2011.

³ *Id.*

⁴ *Id.*

⁵ *Id.*; <http://www.civitasaction.org/>; Press Release, Civitas Institute, Civitas Announces Pope Resignation from Boards, December 20, 2012.

⁶ Kromm, *Indy Week*, Mar. 9, 2011; Craig Jarvis, McCrory Names Art Pope to be His Chief Budget Writer, *News & Observer*, December 20, 2012.

⁷ *Id.*

⁸ Kromm, *Indy Week*, Mar. 9, 2011; Mayer, *New Yorker*, Oct. 10, 2011.

⁹ http://www.opensecrets.org/527s/527cmtedetail_contribs.php?cycle=2010&ein=272515965.

mapping districts.¹⁰ The resulting map went into effect for the 2012 elections and shifted the state's U.S. House delegation from a 7-6 Democratic majority to a 9-4 Republican majority.¹¹

During the 2012 election, Mr. Pope and his family members heavily backed Gov. McCrory, giving at least \$20,000 directly to his campaign, in addition to \$125,000 to the state Republican Party.¹² Variety Wholesalers also contributed at least \$450,000 to three outside groups that spent heavily on behalf of Gov. McCrory: the Republican State Leadership Committee, the Republican Governors Association, and Real Jobs NC.¹³ In addition, Americans for Prosperity spent nearly \$470,000 on races in North Carolina during the cycle, including \$130,000 on ads in the governors' race directly benefitting Gov. McCrory.¹⁴

Gov. McCrory named Mr. Pope co-chairman of his transition team.¹⁵ In December 2012, Gov. McCrory appointed Mr. Pope budget director, the most powerful appointed position in state government.¹⁶ In addition, Gov. McCrory's chief of staff, Thomas Stith, is a former vice president at the Civitas Institute.¹⁷ Mr. Pope said he has taken a leave from his family foundations and various other public and nonprofit boards, including his positions with the Civitas Institute and Civitas Action, as well as Americans for Prosperity, in order to take the state job.¹⁸ Since becoming budget director, Mr. Pope has sought to end public financing for judicial elections, a priority of Mr. Pope's private foundations.¹⁹ The public financing system is favored in polling by North Carolina residents²⁰ and was used by every judicial candidate in 2012.²¹ Some organizations previously affiliated with Mr. Pope appear to be rallying to support his initiatives. Americans for Prosperity, for example, recently ran ads in the state praising Gov. McCrory as bringing "a new day" in North Carolina because "a fresh crop of leaders" are "bringing conservative reforms" and minimizing "the threat of Obamacare."²²

In addition, during his unsuccessful 2008 gubernatorial campaign, Gov. McCrory, citing past scandals, repeatedly said fundraisers should not be appointed to the state Department of

¹⁰ Olga Pierce, Justin Elliott, and Theodor Meyer, How Dark Money Helped Republicans Hold the House and Hurt Voters, *ProPublica*, December 21, 2012; <http://www.politico.com/2012-election/results/house/north-carolina/>; <http://www.wral.com/news/political/page/8487904/?group=us>.

¹¹ Pierce, Elliott, and Meyer, *ProPublica*, Dec. 21, 2012; <http://www.politico.com/2012-election/results/house/north-carolina/>; <http://www.wral.com/news/political/page/8487904/?group=us>; Chris Kromm and Sue Sturgis, North Carolina's Tug-of-War, *American Prospect*, June 6, 2013.

¹² Chris Kromm, Art Pope's Path to Power, *Institute for Southern Studies*, December 21, 2012.

¹³ *Id.*

¹⁴ <http://www.followncmoney.org/committee/americans-prosperity>.

¹⁵ McCrory Unveils Transition Team, Defends Selection of Conservative Activist Art Pope, *Associated Press*, November 8, 2012.

¹⁶ Jarvis, *News & Observer*, Dec. 20, 2012; Kromm and Sturgis, *American Prospect*, June 6, 2013.

¹⁷ Kromm, *Institute for Southern Studies*, Dec. 21, 2012; Rob Schofield, Pope-Civitas Fundraiser Email Contains Giant Omission, *NC Policy Watch*, January 2, 2013.

¹⁸ Jarvis, *News & Observer*, Dec. 20, 2012.

¹⁹ Paul Blumenthal, N.C. Gov. Pat McCrory, Budget Director Art Pope Aim to End Judicial Public Financing Program, *Huffington Post*, April 4, 2013.

²⁰ Press Release, North Carolina Center for Voter Education, N.C. Voters: Campaign Contributions Influence Court Rulings, February 22, 2011.

²¹ Blumenthal, *Huffington Post*, Apr. 4, 2013.

²² Abby Goodnough, Critics of Health Care Law Outspending Its Supporters on Ads, *New York Times*, June 4, 2013; <http://www.youtube.com/watch?v=JPZxfIT4Ghg>.

Transportation board.²³ Nonetheless, in February 2013, Gov. McCrory appointed 10 new members to the board, all of whom were donors or fundraisers to his 2012 campaign.²⁴ In all, the appointees and their spouses donated a combined \$34,894.²⁵ Appointee Mike Smith, a fundraiser, raised \$106,000 for Gov. McCrory's campaign.²⁶

Gov. McCrory named Aldona Wos as secretary of the Department of Health and Human Services.²⁷ Ms. Wos, a retired doctor and ambassador to Estonia from 2004-2006, was a co-chair of Gov. McCrory's 2012 campaign and donated \$5,717.²⁸ In addition, her family, their company, New Breed Logistics, and the company's employees collectively contributed more than \$260,000 to Gov. McCrory's 2012 campaign.²⁹

PARTISAN POLITICS

Voter ID

In 2011, while running for governor, Gov. McCrory voiced support for a voter identification bill later vetoed by then-Gov. Beverly Perdue (D).³⁰ He urged his supporters to make videos showing the places where they were already required to produce photo identification.³¹ In April 2013, the state House passed a bill to require voters to show government-issued photo identification.³² The law is now pending before the state Senate, where it is expected to be taken up this month.³³ Gov. McCrory has said he supports the legislation.³⁴

²³ Mark Binker, McCrory Stands Behind DOT Appointee Despite Donations, *WRAL-TV*, April 8, 2013; Bruce Siceloff, Gov. McCrory Appoints Fundraisers to Board After Candidate McCrory Vowed Not To, *News & Observer*, April 5, 2013.

²⁴ *Id.*; Bruce Siceloff, 10 Board of Transportation Appointees Helped McCrory Campaign Raise \$156,394, *News & Observer*, April 3, 2013.

²⁵ *Id.*

²⁶ Binker, *WRAL*, Apr. 8, 2013; Siceloff, *News & Observer*, Apr. 5, 2013.

²⁷ Rob Christensen, McCrory Picks Outside the Box for DHHS Secretary, *News & Observer*, December 15, 2012.

²⁸ Follow the Money, Contributions Lookup, Pat McCrory, 2009–2012; <http://estonia.usembassy.gov/wos.html>.

²⁹ Gerrick Brenner, Op-Ed: Brenner — McCrory Donors Win Big Payback, *Fayetteville Observer*, January 27, 2013.

³⁰ McCrory Not Wedded to Photo ID Requirement to Vote, *Associated Press*, January 10, 2013.

³¹ *Id.*

³² Rob Christensen, GOP Rolls Out Less Restrictive N.C. Voter ID Bill, *Charlotte Observer*, April 5, 2013; Herbert L. White, N.C. House Passes Voter ID Bill, *Charlotte Post*, April 25, 2013; <http://ncleg.net/gascripts/BillLookup/BillLookup.pl?Session=2013&BillID=HB+589&submitButton=Go>.

³³ *Id.*; North Carolina Senate Delaying Voter ID Bill for Another Week, *Associated Press*, July 1, 2013.

³⁴ Jim Morrill, McCrory Meets with African American Lawmakers, Educators, *Charlotte Observer*, April 29, 2013.

SIDESHOWS

GOV. TERRY BRANSTAD (R-IA) was elected in 2010. He had previously served four consecutive terms as governor, from 1983 to 1999.

CRONYISM Gov. Branstad appointed his top campaign donor, Bruce Rastetter, to the Iowa Board of Regents and initiated a shakeup that allowed Mr. Rastetter to become the board president in June 2013.¹ Mr. Rastetter, who founded an ethanol company and is currently the chief executive officer of an agriculture company, has been accused of using his board position to stifle academic freedom and to promote a pro-agriculture agenda at the state's three universities.² Gov. Branstad appointed Mr. Rastetter's brother, Brent, also a major donor, to the board of the Iowa Environmental Protection Commission, the state environmental oversight panel.³ Brent Rastetter owns a business that builds large livestock operations regulated under clean water laws overseen by the commission.⁴

PRESSURING PUBLIC OFFICIALS Gov. Branstad sought to pressure and remove the state workers' compensation commissioner on behalf of business interests. After taking office, Gov. Branstad asked for the resignation of all state department heads.⁵ Iowa Workers' Compensation Commissioner Chris Godfrey, whose six-year term is meant to shelter him from political interference, repeatedly refused to resign.⁶ Gov. Branstad's administration then reduced his salary from \$109,000 to \$73,259 a year, the lowest possible for his pay grade.⁷ Gov. Branstad said he was encouraged to force out Mr. Godfrey by the Iowa Association of Business and Industry, though the association's president denied asking for Mr. Godfrey's removal.⁸ Mr. Godfrey filed a lawsuit against the state over the situation, alleging mistreatment and sex discrimination, among other things.⁹ The lawsuit is pending.¹⁰

¹ <http://www.followthemoney.org/database/StateGlance/candidate.phtml?c=116516>; <http://iowaindependent.com/4203/secrets-of-the-american-future-fund>; Press Release, Office of Governor of Iowa Terry Branstad, [Gov. Branstad appoints Bruce Rastetter, Katie Mulholland and Nicole Carroll to the Iowa Board of Regents](#), February 25, 2011; <http://www.regents.iowa.gov/BoardMembers/boardmembers.html>; [Hog, Ethanol Baron Bruce Rastetter Now a Republican Kingmaker](#), *Associated Press*, August 4, 2011; Ryan J. Foley, [Rastetter Picked to Lead Iowa Board of Regents](#), *Associated Press*, June 5, 2013.

² Jim Rutenberg, Don Van Natta Jr., and Mike McIntire, [Offering Donors Secrecy, and Going on Attack](#), *New York Times*, October 11, 2010; Ryan J. Foley, [Rastetter Picked to Lead Iowa Board of Regents](#), *Associated Press*, June 5, 2013.

³ <http://www.followthemoney.org/database/StateGlance/contributor.phtml?d=1283676980>; *Associated Press*, Aug. 4, 2011; Perry Beeman, [Iowa CCI Files Ethics Complaint Against Environmental Commissioner Brent Rastetter](#), *Des Moines Register*, August 16, 2011.

⁴ *Id.*; [Ethics Complaint Against Rastetter Dismissed](#), *Associated Press*, November 17, 2011.

⁵ Jason Clayworth, [Branstad First Demands Resignation and Then Sinks Commissioner's Pay](#), *Des Moines Register*, July 12, 2011.

⁶ *Id.*

⁷ *Id.*

⁸ Jason Clayworth, [Business Group Says It Did Not Encourage Branstad to Fire Commissioner](#), *Des Moines Register*, July 13, 2011.

⁹ Jason Clayworth, [Iowa's Workers' Compensation Commissioner Files \\$1 Million Lawsuit Against the State](#), *Des Moines Register*, January 11, 2012.

¹⁰ [Branstad Lawsuit Bill Tops \\$370,000](#), *Associated Press*, April 3, 2013.

SELF ENRICHMENT Additionally, because he previously held office for 26 years, Gov. Branstad draws a pension while also paid a salary.¹¹ His 2012 salary was \$121,188 and he also received \$53,480 in pension payments from the Iowa Public Employees Retirement System.¹² He has defended double-dipping.¹³

PARTISAN POLITICS On his first day in office, Gov. Branstad signed an executive order reversing a six-year policy of his Democratic predecessors to automatically reinstate the voting rights of felons once they were discharged from state supervision.¹⁴ Under the terms of the new order, felons were required to apply to the governor to regain their voting rights and were required to submit a credit report.¹⁵ After the NAACP criticized the rules as disproportionately harming blacks, Gov. Branstad amended the policy.¹⁶ Now, applicants still must apply to the governor, but need only to be current on their payments of fines, restitution, and court costs.¹⁷

¹¹ <http://www.senate.iowa.gov/democrats/ap-branstad-earns-salary-plus-pension/>; <http://www.nndb.com/gov/941/000051788/>; Tom Beaumont, [Branstad Defends Receiving Pension and Salary](#), *Des Moines Register*, February 21, 2011.

¹² [Governor Branstad Earning \\$130k Salary, Plus \\$50k Pension](#), *Associated Press*, February 15, 2011; https://webapp.iecdb.iowa.gov/PublicView/pfd/2010/Branstad_Terry%20E..pdf; [Branstad Releases 2012 Tax Information](#), *The Gazette*, April 19, 2013.

¹³ Beaumont, *Des Moines Register*, Feb. 21, 2011.

¹⁴ Ryan J. Foley, [Iowa Felon's Voting Rights: Terry Branstad's Executive Order Disenfranchises Thousands](#), *Associated Press*, June 26, 2012.

¹⁵ *Id.*

¹⁶ Jason Noble, [Terry Branstad Announces Changes to Application for Restoring Felons' Voting Rights](#), *Des Moines Register*, December 28, 2012.

¹⁷ *Id.*

GOV. ANDREW CUOMO (D-NY) was elected in 2010.

TRANSPARENCY Gov. Cuomo has been criticized as having “a transparency problem” stemming from efforts to block access to records from his time as governor and as New York’s attorney general.¹ The governor does not use e-mail to conduct state business.² His aides do not regularly discuss substantive issues over e-mail, and some routinely delete their electronic inboxes and sent messages.³ Instead, Gov. Cuomo and his aides tend to communicate by phone or through the BlackBerry PIN-to-PIN message system which, unlike e-mail, does not pass through a server and cannot be recovered once deleted.⁴ Gov. Cuomo adopted a previous New York state archives policy concluding many e-mails are “not records and are therefore suitable for immediate destruction” and expanded it to include “all electronic communications, whether by e-mail, text, or BlackBerry pin.”⁵ Since Gov. Cuomo took office, his aides have sought to withhold documents from his time as attorney general from public review, going so far as to remove records that had already been made public from the New York state archives.⁶

In addition, Gov. Cuomo encouraged the formation of a tax-exempt group, the Committee to Save New York (CSNY), which spent millions received from mostly anonymous donors to support the governor’s agenda with television ads.⁷ The group received \$2 million from gambling interests shortly before Gov. Cuomo began explicitly advocating for expanded gambling, including in his State of the State address.⁸ In 2011, Gov. Cuomo signed ethics legislation requiring the disclosure of donors to lobbying organizations like the CSNY.⁹ Donations to the CSNY dried up after the new disclosure law was implemented.¹⁰ The organization declined to engage in fights over Gov. Cuomo’s 2013 budget, partially out of concern that the new lobbying law would bring public scrutiny to donors.¹¹

¹ Governor Cuomo at the Controls, *New York Times*, July 28, 2012.

² Records Indicate Gov. Cuomo Doesn’t Use State Email Despite Transparency Promise, *CBS New York/Associated Press*, July 16, 2012.

³ Thomas Kaplan, Despite Cuomo’s Vow of Sunlight, a Bid to Keep Aides’ E-Mail in the Dark, *New York Times*, July 16, 2012.

⁴ Kenneth Lovett, Gov. Cuomo Uses BlackBerry Pin-to-Pin Messaging System When They Can’t Talk on the Phone, *New York Daily News*, July 15, 2012.

⁵ State of New York Executive Chamber, Records Retention and Disposition Schedule, July 2, 2012, *available at* <http://www.scribd.com/doc/98902430/Cuomo-Records-Retention-Schedule>; http://www.archives.nysed.gov/a/records/mr_pub_genschedule_accessible.html. The policy says messages or attachments otherwise considered records should be maintained and instructs agency staff to use “sound judgment and apply consistent criteria” when determining whether something is a record.

⁶ Danny Hakim, Cuomo’s Archive as Attorney General, Self-Edited, *New York Times*, July 23, 2012; Jimmy Vielkind and James M. Odato, Cuomo Control of Information Includes Screening, Redaction of Records at State Archives, *Albany Times Union*, July 23, 2012.

⁷ Nicholas Confessore and Thomas Kaplan, \$12 Million to Help Cuomo Came from Just 20 Donors, *New York Times*, May 11, 2012; Erica Orden and Laura Nahmias, Powerful Ally to Governor Sits Out Fight, *Wall Street Journal*, February 25, 2013.

⁸ Nicholas Confessore, Danny Hakim, and Charles V. Bagli, Gambling Group Gave \$2 Million to Cuomo Ally, *New York Times*, June 4, 2012.

⁹ NY Governor Signs Government Ethics Law, *Associated Press*, August 15, 2011; Without Secrecy, Donations Stop for NY Cuomo Group, *Associated Press*, May 10, 2013.

¹⁰ *Id.*

¹¹ Orden and Nahmias, *Wall Street Journal*, Feb. 25, 2013.

CRONYISM Gov. Cuomo has placed political allies and campaign donors in numerous state positions. Half of the 22 appointees Gov. Cuomo has made to five judicial screening committees as of June 2011 were financial supporters, including some whose law firms could potentially face the selected judges.¹² Nearly a third of the 49 people hired by the Empire State Development Corporation during the first 20 months of Gov. Cuomo's administration had political ties to the governor, including some of his allies' children who, the *New York Times* reported, had few qualifications.¹³ Gov. Cuomo also appointed two large campaign donors to prestigious posts. Henry Silverman, who has contributed more than \$130,000 to the governor since 2006, was nominated to chair the board of directors of the Javits Center/New York Convention Center Operating Corporation.¹⁴ Laura Aswad, who has contributed more than \$90,000 to the governor since 2009, was reappointed to the New York State Council on the Arts.¹⁵

¹² Kenneth Lovett, Gov. Cuomo Packs Judicial Screening Committees with Cronies, Big-Time Campaign Donors, *New York Daily News*, June 13, 2011.

¹³ Danny Hakim, Many Openings at State Agency Go to Those with Ties to Cuomo, *New York Times*, April 27, 2013.

¹⁴ Kenneth Lovett, Gov. Cuomo Appoints Two Top Donors to Influential Civic Boards, *New York Daily News*, March 24, 2013; <http://www.governor.ny.gov/press/06202013senate-confirmation-multiple-appointments>.

¹⁵ Lovett, *New York Daily News*, March 24, 2013.

GOV. BILL HASLAM (R-TN) was elected in 2010.

TRANSPARENCY Gov. Haslam has repeatedly flouted transparency standards. In one example, Gov. Haslam issued an executive order almost immediately after taking office rolling back financial disclosure requirements for executive branch employees, including the governor.¹ Gov. Haslam's lack of transparency about his finances has made it difficult to fully assess his conflicts of interest. Since he took office, the state has spent millions of dollars to buy a building from his former business partner, he signed legislation benefitting a former business associate, and the state has funneled business to a real estate services firm, Jones Lang LaSalle, Gov. Haslam invested in before becoming governor.² The governor's aides pushed to increase the size of a state contract with Jones Lang LaSalle without going through a competitive bidding process.³

In addition, Gov. Haslam used personal funds to pay a top political advisor, who is also a registered lobbyist, which meant the payments were not a matter of public record.⁴ News of the private payments surfaced publicly in May 2013, together with revelations that the consultant, Tom Ingram, lobbied state officials while secretly on the governor's payroll.⁵ Mr. Ingram said he did not lobby the governor directly but appears to have regularly contacted top aides in the governor's office, including his chief of staff.⁶ Mr. Ingram also failed to register as a lobbyist for a client on whose behalf he lobbied state government.⁷ In addition, e-mails show Mr. Ingram engaged in campaign work for Gov. Haslam while he was being privately paid, which may violate state laws requiring campaign expenses to be reported on disclosure forms.⁸ In June 2013, Gov. Haslam said he would begin paying Mr. Ingram through his campaign.⁹

MISMANAGEMENT A federal judge ruled Gov. Haslam overstepped his authority and impinged on First Amendment rights when he imposed a curfew leading to the arrest of Occupy Nashville protesters.¹⁰

PARTISAN POLITICS In May 2011, Gov. Haslam signed controversial legislation requiring voters to show photo identification,¹¹ though a few months later, even before the law took effect, expressed concern that the new requirement would make it "unnecessarily hard" for some people

¹Erik Schelzig, Gov. Haslam Scuttles Income Disclosure Rules, *Associated Press*, January 16, 2011; Tom Humphrey, Ethics Policies Combined; Governor's Meetings Stay Secret, *Knoxville News Sentinel*, September 10, 2012; Andy Sher, Governor Bill Haslam's Staff Declines Request On Advice For TRA Revamp, *Chattanooga Times Free Press*, April 30, 2012.

²Walter F. Roche Jr., Tennessee Pays Millions for Fixer-Upper, *Tennessean*, December 16, 2012; Nate Rau, TN Distillery Bill Raises Ethics Queries, *Tennessean*, May 12, 2013; Phil Williams, Governor Invested In Company Getting \$330 Million Contract, *News Channel 5*, June 10, 2013.

³Williams, *News Channel 5*, June 10, 2013.

⁴Ben Hall, Lobbyist On Payroll Of Both Governor, Special Interests, *News Channel 5*, May 7, 2013.

⁵*Id.*

⁶Ben Hall, Emails Reveal Key Lobbyist's Access to Haslam Administration, *News Channel 5*, July 8, 2013.

⁷Andy Sher, Tennessee Ethics Panel to Meet on Tom Ingram Lobbying Case, *Chattanooga Times Free Press*, May 13, 2013.

⁸Ben Hall, Did Governor Haslam Break Campaign Finance Laws?, *News Channel 5*, July 11, 2013.

⁹Chas Sisk, Haslam To Put Lobbyist Back On Campaign Payroll, *Tennessean*, June 25, 2013.

¹⁰Bobby Allyn, Occupy Nashville Wins Ruling That TN Violated First Amendment Rights, *Tennessean*, June 12, 2013.

¹¹<http://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=SB0016&ga=107>.

to vote.¹² In 2013, Gov. Haslam signed a subsequent bill prohibiting voters from using photo identification issued by counties, municipalities, or other states when voting in person.¹³

¹² Tom Humphrey, Gov. Bill Haslam Voices Concerns About Requiring Photo ID for Voting, *Knoxville News Sentinel*, December 16, 2011.

¹³ Out-of-State Photo Identification Will Not Be Accepted To Vote In '14, *Tennessean*, May 3, 2013.

GOV. BOBBY JINDAL (R-LA) was first elected governor in 2007 and was reelected in 2011. He was included in CREW's 2010 report on governors.¹

SCANDAL Some of the governor's largest corporate campaign contributors have also donated heavily to a foundation set up by his wife, raising questions about whether they are attempting to curry favor with the governor.² Gov. Jindal's wife, Supriya Jindal, founded the nonprofit Supriya Jindal Foundation for Louisiana's Children in July 2008, shortly after her husband took office.³ The foundation distributes interactive whiteboards to Louisiana schools.⁴

A review in March 2011 found nine of 13 corporate donors that collectively pledged at least \$790,000 to the Jindal Foundation also contributed more than \$100,000 to Gov. Jindal's campaign between 2007 and 2011.⁵ Gov. Jindal's chief fundraiser, Alexandra Bautsch, who has worked for the governor since at least 2005, was also listed as the foundation's treasurer until 2010, according to the organization's tax returns.⁶ In addition, the foundation's fundraising web page for a time featured a picture of Gov. Jindal with his wife.⁷

The March 2011 review showed the overlapping donors included companies with significant interests before Louisiana state government, such as AT&T Inc., Marathon Oil Corp., Northrop Grumman Corp., and state contractors such as Acadian Ambulance.⁸ The nine companies collectively employed more than 50 lobbyists in Louisiana, and eight of the companies received at least \$113.6 million from the state.⁹ The governor's spokesman described the foundation as "a completely nonpolitical, nonpartisan organization created by the first lady," and said he had not intervened to help any of the foundation's donors with state business.¹⁰

CRONYISM Gov. Jindal has appointed large campaign donors to state posts. An August 2012 newspaper analysis found 193 of Gov. Jindal's appointees to state boards and commissions collectively donated more than \$2.6 million to the governor's various campaigns.¹¹ State higher education boards and the Superdome's board of commissioners were especially dominated by

¹ For more information, see *CREW's Worst Governors 2010*, available at <http://www.citizensforethics.org/worstgovernors>.

² Eric Lipton, *Wife's Charity Offers Corporate Tie to a Governor*, *New York Times*, March 2, 2011.

³ The Supriya Jindal Foundation for Louisiana's Children, *Nonprofit Corporation Registration*, Secretary of State: Louisiana, filed July 21, 2008; <http://jindalfoundation.org/>.

⁴ The Supriya Jindal Foundation for Louisiana's Children, *IRS Form 990-EZ, Initial Return 2009*, May 11, 2010.

⁵ <http://jindalfoundation.org/partners/>; <http://jindalfoundation.org/donate/>; Follow the Money, *Contributor Lookup*, *Bobby Jindal*, 2007 - 2012. Contributors to Gov. Jindal include Marathon Oil, Acadian Ambulance, D & J Construction, State Farm, BlueCross BlueShield of Louisiana, Northrop Grumman, Wal-Mart, Dow Chemicals, and AT&T, plus contributions from company PACs and executives.

⁶ The Supriya Jindal Foundation for Louisiana's Children, *IRS Form 990-EZ, Initial Return 2009*, May 11, 2010; The Supriya Jindal Foundation for Louisiana's Children, *IRS Form 990-EZ, Initial Return 2011*, May 14, 2012; Jan Moller, *Gov. Bobby Jindal's Campaign Spending is Up*, *Times-Picayune*, March 3, 2010; Bobby Jindal, *Candidate's Report Form F102*, Report ID LA-35719, filed February 15, 2013.

⁷ <http://jindalfoundation.org/donate/>.

⁸ <http://jindalfoundation.org/partners/>; Lipton, *New York Times*, Mar. 2, 2011.

⁹ <http://www.ethics.state.la.us/LobbyistData/>; <http://www.prd.doa.louisiana.gov/latrac/vendors.cfm>.

¹⁰ Lipton, *New York Times*, Mar. 2, 2011.

¹¹ Tom Aswell, *193 of Piyush's Best Friends Cough up \$2.6 Million, Get Choice Appointments*, *Louisiana Free Press*, August 13, 2012.

campaign contributors: 50 appointees and their families and businesses together contributed nearly \$1.2 million to Gov. Jindal.¹²

A March 2011 *WAFB* investigation found eight of nine appointees to the Louisiana Board of Regents, the 16-member board that oversees higher education in Louisiana, contributed at or near the \$5,000 maximum personal contribution limit to Gov. Jindal's campaign, collectively giving a total of \$37,500.¹³ Six of the eight donors' contributions were received around the time the donors were appointed to the board.¹⁴ In July 2012, Gov. Jindal appointed another large donor, Ray Brandt, who contributed at least \$25,000 to the governor's campaigns since 2007.¹⁵

MISMANAGEMENT Gov. Jindal appointed Bruce Greenstein to be secretary of the state Department of Health and Hospitals (DHH) despite concerns about potential conflicts of interest. The appointment led to a federal probe into DHH's award of a nearly \$200 million contract to Sec. Greenstein's former employer.

In July 2010, Gov. Jindal appointed Mr. Greenstein, a former vice president at Client Network Services, Inc. (CNSI), as secretary of DHH.¹⁶ During Mr. Greenstein's 2011 confirmation hearings, which were not held until nine months after he began the job, state legislators voiced concerns about his relationship with CNSI and questioned Mr. Greenstein about his role in DHH's selection of a Medicaid processing firm.¹⁷ Mr. Greenstein initially testified he had not been involved in the selection process, but after documents contradicting him surfaced during a second hearing, he acknowledged he had been responsible for changing the bid solicitations in a way that made CNSI eligible to bid.¹⁸

The company received low technical scores but won the contract in large part because it offered the lowest price, though the other firms competing for the work subsequently filed complaints with the state accusing CNSI of "low balling" in order to win the bid.¹⁹ The state's Division of Administration rejected these complaints.²⁰

In March 2013, however, news of a federal probe into the CNSI contract emerged publicly.²¹ On the advice of the state attorney general's office, Gov. Jindal's administration cancelled the DHH-CNSI contract and launched an inquiry into Mr. Greenstein's role in the award.²² The governor issued a statement reaffirming his faith in Mr. Greenstein, but nonetheless, Mr. Greenstein resigned a week after the termination of the contract.²³ The Jindal administration later uncovered

¹² *Id.*

¹³ Robb Hays and David Spunt, I-TEAM: Board of Regents Appointees Donate to Jindal, *WAFB*, March 3, 2011.

¹⁴ *Id.*

¹⁵ Stephen Sabludowsky, Jindal Continues Major Campaign Cash-Regents Pick with Ray Brandt, *Bayou Buzz*, July 27, 2012.

¹⁶ <http://www.gov.state.la.us/index.cfm?md=pagebuilder&tmp=home&cpid=27>; Melinda Deslatte, Medicaid Probe Is Trouble for Jindal, *Associated Press*, April 10, 2013.

¹⁷ Laura Maggi, Investigators Looking into Possible Perjury by Former Louisiana Health Chief, *Times-Picayune*, May 3, 2013.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Marsha Shuler, Jindal Cancels Contract, *The Advocate*, March 24, 2013.

²² *Id.*

²³ Laura McGaughy, DHH Secretary Bruce Greenstein Resigns in Wake of Federal Investigation, *Times-Picayune*, March 29, 2013.

evidence showing Mr. Greenstein exchanged “hundreds of phone calls” and “thousands of text messages” with CNSI during the bid process, creating an unfair advantage for the company, a state official said in a letter cancelling the contract.²⁴ In May 2013, the Louisiana attorney general’s office launched its own criminal investigation into the DHH-CNSI contract.²⁵ CNSI has denied any wrongdoing, and has sued the state over the contract’s cancellation.²⁶

TRANSPARENCY In 2009, Gov. Jindal backed legislation meant to allow more access to public records. The legislation, however, included an exemption allowing the governor to block disclosure of records considered part of his “deliberative process.”²⁷ The governor’s administration has since used the exemption to shield a wide array of documents, including some previously available to the public, such as records generated by agencies outside the governor’s office.²⁸ The governor’s broad interpretation of the exemption has sparked concern among good government and watchdogs groups and prompted a series of court challenges.²⁹

Despite his pledge to make Louisiana’s state government more transparent, the Jindal administration has faced complaints that it circumvents transparency scrutiny on multiple fronts.³⁰ Media outlets uncovered evidence that Gov. Jindal’s staffers used personal e-mail accounts to conduct state business on some controversial issues, including Medicaid cuts and school voucher programs.³¹ Critics have also charged Gov. Jindal’s administration with deliberately skirting Louisiana’s open meetings law.³²

²⁴ Melinda Deslatte, Grand Jury to Look into \$200M Medicaid Contract Awarded by Jindal Administration, *Associated Press*, May 23, 2013; Maggi, *Times-Picayune*, May 3, 2013.

²⁵ Deslatte, *Associated Press*, May 23, 2013.

²⁶ *Id.*

²⁷ Lawsuits Challenge Louisiana Public Records Exemption for Governor, *Associated Press*, September 10, 2012.

²⁸ *Id.*; Tyler Bridges, Jindal Administration Invoking 2009 Law to Shield Public Records, *The Lens*, November 21, 2012.

²⁹ *Id.*

³⁰ Melinda Deslatte, Bobby Jindal Aides Use Personal Email to Strategize on Medicaid Cuts, *Associated Press*, December 10, 2012; Barbara Leader, Critics: White’s Email Blurs Jindal’s Transparency, *The News Star*, July 3, 2012.

³¹ *Id.*

³² Bill Barrow, Governor’s Office Helped Organize Closed-Door Gathering of New Teaching Hospital Board, *Times-Picayune*, August 5, 2010.

GOV. JOHN KASICH (R-OH) was elected in 2010.

TRANSPARENCY In February 2011, Gov. Kasich replaced Ohio's Department of Development with a private, non-profit organization called JobsOhio.¹ JobsOhio is financed by the sale of bonds backed by the state's wholesale liquor profits and private donations, but it is exempt from Ohio's public record laws and does not have to disclose its donors.² The Kasich administration resisted efforts by the state auditor to examine JobsOhio's financial records, claiming private donations and liquor profits should not be subject to an audit.³ State Auditor Dave Yost subpoenaed JobsOhio to get access to its financial records.⁴ JobsOhio eventually complied, but with Gov. Kasich's support, the group sought legislation to strip the state auditor of authority to examine records related to money from state liquor-supported bond sales.⁵ Gov. Kasich pushed the fast-tracked legislation, and signed it in private.⁶ In a separate disclosure dispute, Gov. Kasich invoked executive privilege to block the release of some of his schedules to the Ohio Democratic Party.⁷ He was the first Ohio governor to invoke executive privilege since it was created by a 2006 Ohio Supreme Court decision.⁸

PARTISAN POLITICS Gov. Kasich has backed new restrictions on voting. In 2011, he signed an election-law bill preventing counties from mailing unsolicited absentee ballots to voters, eliminating a requirement that poll workers help voters voting at the wrong location, altering rules for challenging voters based on citizenship and party affiliation and eliminating in-person voting the three days preceding an election.⁹ Opponents of the bill were able to gather enough signatures to put the law on the November 2012 ballot for a voter referendum.¹⁰ Concerned that the referendum would drive Democratic-leaning voters to the polls, benefitting President Obama's re-election effort, Republicans reversed course and repealed all of the new measures except that eliminating in-person voting the three days before the election, and Gov. Kasich signed the legislation.¹¹ Ohio Democrats sued state officials over the elimination of the three-day period and a federal appeals court reinstated the early voting period in October 2012.¹²

¹ Joe Guillen, Gov. John Kasich Signs JobsOhio Bill, Addresses Doubts that His Hand-Picked Leader for the Corporation is Eligible to Serve, *Cleveland Plain Dealer*, February 18, 2011.

² *Id.*; Reginald Fields, Gov. John Kasich's Private Jobs Agency to Control Ohio Liquor Profits, *Cleveland Plain Dealer*, January 23, 2012; Joe Vardon, Donors Funneled \$6.9M to JobsOhio, *Columbus Dispatch*, May 18, 2013.

³ Joe Hallett, Kasich/Yost; Showdown?; Governor's Office and State Auditor May Be at Odds over JobsOhio Audit, *Columbus Dispatch*, March 7, 2013; Tom Breckenridge, Democrats Raising More Questions On JobsOhio as Kasich, Yost Tussle over Audit, *Cleveland Plain Dealer*, March 14, 2013.

⁴ Robert Higgs, JobsOhio Complies with Ohio Auditor Dave Yost's Records Subpoena but Still Disputes Auditor's Legal Authority, *Cleveland Plain Dealer*, March 19, 2013; Ann Sanner, Ohio Bill Shielding Liquor Deal Money Heads to Kasich, *Associated Press*, May 31, 2013; Breckenridge, *Cleveland Plain Dealer*, Mar. 14, 2013.

⁵ *Id.*; Higgs, *Cleveland Plain Dealer*, Mar. 19, 2013; Breckenridge, *Cleveland Plain Dealer*, Mar. 14, 2013.

⁶ Joe Vardon, Bill Signed to Close JobsOhio's Books, *Columbus Dispatch*, June 5, 2013; Sanner, *Associated Press*, May 31, 2013.

⁷ Aaron Marshall, Gov. John Kasich Asserts Executive Privilege in Records Fight with Democrats, *Cleveland Plain Dealer*, September 20, 2012.

⁸ *Id.*

⁹ Jim Siegel, House Approves Election Overhaul Bill, *Columbus Dispatch*, June 29, 2011; Joe Vardon, Kasich Likely to Sign Repeal of Election Bill He Signed, *Columbus Dispatch*, May 15, 2012; Kim Palmer, John Kasich Signs Bill to Repeal Voting Law Changes in Ohio, *Reuters*, May 15, 2012.

¹⁰ *Id.*

¹¹ *Id.*

¹² Ann Sanner, High Court Won't Block Early Voting in Ohio, *Associated Press*, October 16, 2012.

GOV. RICK SNYDER (R-MI) was elected in 2010.

TRANSPARENCY Shortly after taking office, Gov. Snyder established three funds able to accept unlimited corporate donations—the Governor’s Club, the Foundation to Reinvent Michigan (FRM), and the New Energy to Reinvent and Diversify (NERD) fund.¹ The Governor’s Club, set up in March 2011 under Section 527 of the tax code, pays for the governor’s job-related expenses, including travel to political meetings and conventions, office lunches, and renovations to a press room in the governor’s office building.² Unlike the two other funds, donors to the Governor’s Club are publicly disclosed.³ FRM and the NERD fund were set up in February 2011 under sections 501(c)(3) and 501(c)(4) of the tax code respectively, which means they are not legally required to publicly disclose donors.⁴ FRM pays for repair and maintenance of the governor’s official residences, while money contributed to the NERD fund is reportedly dedicated to “the promotion of civic action and social welfare.”⁵ Gov. Snyder’s predecessor used funds like the Governor’s Club and FRM for similar purposes, but did not have one similar in scope to the NERD fund.⁶ In tax filings, the NERD fund, which reported raising \$1.3 million in 2011, disclosed spending more than \$130,000 on a security system and furniture for the governor’s residences.⁷ It ambiguously describes the remainder, \$562,866, as spent for the “common good and general welfare” of the state’s residents and visitors.⁸

In May 2013, the *Detroit Free Press* reported two of Gov. Snyder’s key advisors, a campaign staffer and a member of his gubernatorial staff, were on the payroll of the NERD fund.⁹ Rich Baird is Gov. Snyder’s “transformation manager,” an influential position in the governor’s administration created specifically for him.¹⁰ Mr. Baird, who recently retired from

¹ Paul Egan, *Watchdog: Snyder Funds ‘Disturbing’*, *Detroit News*, September 9, 2011.

² *Id.*; Governor’s Club, *IRS Form 990, Return of Organization Exempt from Income Tax 2011*, August 14, 2012. The Governor’s Club raised \$396,000 in 2011. Donors who contributed \$25,000 in 2011 include: AT&T of Michigan, Inc., Detroit Medical Center, DTE Energy, Health Care Association of Michigan, HNTB Corporation, Jackson National Life Insurance Company, Michigan Credit Union League, Michigan Health & Hospital Association, and Total Health Care.

³ *Id.*

⁴ Jennifer Dixon, *A Too-Good Place to Stash Donor Cash*, *Detroit Free Press*, March 11, 2012; Foundation to Reinvent Michigan, *IRS Form 990, Return of Organization Exempt from Income Tax 2011*, June 29, 2012; New Energy to Reinvent and Diversify, *IRS Form 990, Return of Organization Exempt from Income Tax 2011*, August 14, 2012.

⁵ *Id.* The governor has two official state-owned residences, one in Michigan’s capitol, Lansing, and the other a summer home in Mackinac Island. See <http://www.michigan.gov/miplaces/0,4634,7-244-45894---,00.html>.

⁶ Egan, *Detroit News*, Sept. 9, 2011.

⁷ New Energy to Reinvent and Diversify, *IRS Form 990, Return of Organization Exempt from Income Tax 2011*, August 14, 2012.

⁸ *Id.*

⁹ Tom Walsh, *Snyder’s Talent Guru Steps Out from Behind the Curtain*, *Detroit Free Press*, May 16, 2013; Chris Gautz, *Key Snyder Adviser Prefers His Place Behind the Curtain*, *Crain’s Detroit Business*, May 19, 2013; Nancy Kaffer, *Gov. Rick Snyder Must Come Clean on Details of NERD Fund*, *Detroit Free Press*, June 18, 2013. Gov. Snyder’s former deputy campaign manager, Rick DiBartolomeo, was the NERD fund’s assistant secretary and treasurer and its only paid employee in 2011, earning \$48,366 for working 10 hours a week. During this period he also collected a salary from Gov. Snyder’s campaign committee. Mr. DiBartolomeo left both positions in June 2012 to take a \$115,000-a-year job as the investment administrator for the state Treasury Department. See Kaffer, *Detroit Free Press*, June 18, 2013; Paul Egan, *Snyder Campaign Official Chosen for \$115,000-a-Year State Post*, *Detroit Free Press*, June 28, 2012; New Energy to Reinvent and Diversify, *IRS Form 990, Return of Organization Exempt from Income Tax 2011*, August 14, 2012.

¹⁰ Kaffer, *Detroit Free Press*, June 18, 2013; Walsh, *Detroit Free Press*, May 16, 2013.

PricewaterhouseCoopers, set up a consulting firm, MI Partners LLC, with Gov. Snyder as his sole client.¹¹ The NERD fund pays MI Partners LLC \$100,000 a year.¹²

Mr. Baird's unusual position in the governor's office and the NERD fund's lack of transparency have come under scrutiny as a result of Mr. Baird's involvement in an ongoing lawsuit against Gov. Snyder. The lawsuit alleges that the governor's office violated state laws in offering Detroit Emergency Manager Kevyn Orr his job before Detroit was designated as in financial emergency and before the appointment was reviewed in a public meeting by a state board controlled by the governor.¹³ Mr. Baird, who is not a defendant in the suit, was subpoenaed and claimed executive privilege in refusing to disclose the names of the other candidates he interviewed for the position.¹⁴

Gov. Snyder's attorney explained that while Mr. Baird is not on the government's payroll, "he functions as if he is a state employee" with an office two doors down from the governor's.¹⁵ In defending Mr. Baird's right to claim executive privilege, Gov. Snyder's attorney cited two precedents involving executive privilege: Aaron Burr's 1807 treason trial and President Richard Nixon's attempt to block access to records related to the Watergate scandal.¹⁶ The presiding judge, Ingham County Circuit Court Judge William Collette, dismissed Mr. Baird's claim of executive privilege, saying: "He is a private citizen claiming to be under an umbrella of the governor. The governor wants it both ways, apparently. He wants the ability to hide behind this corporate entity—to hide behind this umbrella and do all of this behind-the-scenes stuff and hide it from everybody."¹⁷

¹¹ Editorial: It's Time Gov. Rick Snyder Tried Transparency Himself, *Detroit Free Press*, June 6, 2013.

¹² *Id.* The NERD fund's tax filings do not disclose the \$100,000 paid to Mr. Baird's MI Partners LLC. See New Energy to Reinvent and Diversify, IRS Form 990, Return of Organization Exempt from Income Tax 2011, August 14, 2012.

¹³ Chad Livengood, Judge Orders Snyder Aide to Produce Detroit EM Candidate Names, *Detroit News*, June 12, 2013; Jonathan Oosting, Critics Challenge Michigan Gov. Rick Snyder on Transparency as Court Orders Disclosure from Aide, *M Live*, June 12, 2013; Paul Egan, Snyder Recruited Orr as EM Before Financial Emergency Declared in Detroit, *Detroit Free Press*, June 5, 2013. The emergency manager (EM) law has been the subject of controversy throughout Gov. Snyder's tenure. In March 2011, Gov. Snyder signed an EM bill granting EMs new and augmented powers. Under the law, the governor has the authority to designate emergency management jurisdictions and to appoint EMs, whom are tasked with taking control of financially distressed cities and school districts and have broad powers to cut costs, overrule local governments, and amend or terminate contracts. Civil rights groups challenged the law, saying it violated the Voting Rights Act by disenfranchising minority voters. In addition, civil rights and progressive groups said Gov. Snyder's process for determining which jurisdictions required emergency management lacked transparency and accountability. In November 2012, Michigan voters repealed the EM law by referendum. One month later, in December 2012, the legislature passed a new EM law by tacking it onto an appropriations bill, meaning it cannot be repealed by voter referendum. Gov. Snyder signed the new bill. In May 2013, the NAACP filed suit against Gov. Snyder claiming that emergency management was unconstitutionally enacted in predominately minority jurisdictions. See Chris Savage, The Scandal of Michigan's Emergency Managers, *The Nation*, February 15, 2012; Paul Abowd, Michigan's Hostile Takeover, *Mother Jones*, February 15, 2012; Chris Christoff, Michigan Lawmakers Approve New Emergency Manager Law, *Bloomberg*, December 14, 2012; Marilisa Sachteleban, Sharpton Group Sues Against Michigan Emergency Management, *Yahoo! News*, April 2, 2013; Khalil AlHajal, NAACP Lawsuit Claims Emergency Manager Law Violates Voting Rights of Half Michigan's African Americans, *M Live*, May 13, 2013.

¹⁴ Livengood, *Detroit News*, June 12, 2013; Oosting, *M Live*, June 12, 2013; Egan, *Detroit Free Press*, June 5, 2013.

¹⁵ Livengood, *Detroit News*, June 12, 2013.

¹⁶ *Id.*

¹⁷ *Id.*