

1 SB4  
2 113060-1  
3 By Senators Brooks and Pittman  
4 RFD: Constitution, Campaign Finance, Ethics, and Elections  
5 First Read: 12-JAN-10  
6 PFD: 05/16/2009

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8 SYNOPSIS: This bill would substantially revise and  
9 reorganize existing law contained in Chapter 25 of  
10 Title 36, the Alabama Code of Ethics. Certain  
11 provisions of existing law would be moved,  
12 clarified, and revised in nine new articles as  
13 follows: General Provisions; State Ethics  
14 Commission; Complaints and Investigations; Misuse  
15 of Official Position; Gifts, Meals, Travel, etc.;  
16 Conflicting Financial Interests; Financial  
17 Disclosures; Lobbyists, Principals, and Others  
18 Interested in Government Action; and Violations -  
19 Reporting and Penalties.

20 This bill would clarify and revise the  
21 definitions of certain terms and add new terms and  
22 definitions.

23 This bill would amend the procedures for  
24 appointment and confirmation of members of the  
25 State Ethics Commission and provide for: A  
26 guaranteed minimum level of annual appropriations;  
27 electronic filing of and Internet public access to

1 statements, reports, notices, and other filings  
2 required by the chapter; revised standards and  
3 procedures for acting on complaints and authorizing  
4 a formal investigation; subpoena power for the  
5 commission; new procedures for post-investigation  
6 referral and status reports by the Attorney General  
7 or district attorney; revised rules concerning the  
8 solicitation and acceptance of gifts, meals, travel  
9 or reimbursement for travel expenses, and other  
10 things of value by public officials and public  
11 employees; required registration of lobbyists who  
12 influence or attempt to influence Executive  
13 Department agencies and personnel and the awarding  
14 of grants or contracts; mandatory disclosure by  
15 public officials and public employees of their  
16 contractual arrangements, or those of their family  
17 or business, with entities that receive public  
18 funds, including government departments, agencies,  
19 boards, commissions, and institutions; and  
20 mandatory quarterly reporting by registered  
21 lobbyists of all things of value provided to and  
22 all financial transactions with public officials,  
23 public employees, and the members of their  
24 household.

25  
26 A BILL  
27 TO BE ENTITLED

AN ACT

To amend Sections 36-25-1 and 36-25-2 of the Code of Alabama 1975; to amend and renumber Sections 36-25-3, 36-25-4, 36-25-5, 36-25-6, 36-25-7, 36-25-9, 36-25-10, 36-25-11, 36-25-13, 36-25-14, 36-25-15, 36-25-16, 36-25-17, 36-25-18, 36-25-19, 36-25-20, 36-25-21, 36-25-22, 36-25-23, 36-25-24, 36-25-26, 36-25-27, 36-25-29, and 36-25-30 of the Code of Alabama 1975; to add Sections 36-25-5, 36-25-11, 36-25-12, 36-25-14, 36-25-15, 36-25-16, 36-25-20, 36-25-21, 36-25-22, 36-25-23, 36-25-24, 36-25-25, 36-25-26, 36-25-31, 36-25-32, 36-25-40, 36-25-42, 36-25-43, and 36-25-83 to the Code of Alabama 1975; to repeal Sections 36-25-8 and 36-25-28 of the Code of Alabama 1975; to substantially revise and reorganize existing law contained in Chapter of 25 of Title 36, the Alabama Code of Ethics; to move, clarify, and revise certain provisions of existing law; to clarify and revise the definitions of certain terms and add new terms and definitions; to further revise the legislative findings and declarations and purposes of the chapter; to amend the procedures for appointment and confirmation of members of the State Ethics Commission and provide for: A guaranteed minimum level of annual appropriations, electronic filing of and Internet public access to statements, reports, notices, and other filings required by the chapter, revised standards and procedures for acting on complaints and authorizing a formal investigation, subpoena power for the commission, new

1 procedures for post-investigation referral and status reports  
2 by the Attorney General or district attorney, revised rules  
3 concerning the solicitation and acceptance of gifts, meals,  
4 travel or reimbursement for travel expenses, and other things  
5 of value by public officials and public employees, require  
6 registration of lobbyists who influence or attempt to  
7 influence Executive Department agencies and personnel and the  
8 awarding of grants or contracts, mandatory disclosure by  
9 public officials and public employees of their contractual  
10 arrangements, or those of their family or business, with  
11 entities that receive public funds, including government  
12 departments, agencies, boards, commissions, and institutions,  
13 and mandatory quarterly reporting by registered lobbyists of  
14 all things of value provided to and all financial transactions  
15 with public officials, public employees, and the members of  
16 their household.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. The heading of Chapter 25 (commencing  
19 with Section 36-25-1) of Title 36 of the Code of Alabama 1975,  
20 is amended to read:

21 "CODE OF PUBLIC ETHICS ~~FOR PUBLIC OFFICIALS,~~  
22 ~~EMPLOYEES, ETC."~~

23 Section 1.5. An article heading is added preceding  
24 Section 36-25-1 of the Code of Alabama 1975, to read:

25 "ARTICLE 1. GENERAL PROVISIONS"

26 Section 2. Section 36-25-1 of the Code of Alabama  
27 1975, is amended to read:

1           "§36-25-1.

2           "Whenever used in this chapter, the following words  
3 and terms shall have the following meanings:

4           "(1) BUSINESS. Any corporation, partnership,  
5 proprietorship, firm, enterprise, franchise, association,  
6 organization, self-employed individual, or any other legal  
7 entity.

8           "(2) BUSINESS WITH WHICH THE PERSON IS ASSOCIATED.  
9 Any business of which the person or a member of his or her  
10 family is an officer, owner, partner, board of director  
11 member, employee, or holder of more than five percent of the  
12 fair market value of the business.

13           "(3) CANDIDATE. This term as used in this chapter  
14 shall have the same meaning ascribed to it in Section ~~17-22A-2~~  
15 17-5-2.

16           "(4) COMMISSION. The State Ethics Commission.

17           "(5) COMPLAINT. Written allegation or allegations  
18 that a violation of this chapter has occurred.

19           "(6) COMPLAINANT. A person who alleges a violation  
20 or violations of this chapter by filing a complaint against a  
21 respondent.

22           "~~(7) CONFIDENTIAL INFORMATION. A complaint filed~~  
23 ~~pursuant to this chapter, together with any statement,~~  
24 ~~conversations, knowledge of evidence, or information received~~  
25 ~~from the complainant, witness, or other person related to such~~  
26 ~~complaint.~~

1           "~~(8)~~ (7) CONFLICT OF INTEREST. A conflict on the  
2 part of a public ~~official or public employee~~ servant between  
3 his or her private interests and the official responsibilities  
4 inherent in an office or position of public trust. A conflict  
5 of interest involves any action, inaction, or decision by a  
6 public ~~official or public employee~~ servant in the discharge of  
7 his or her official duties which would materially affect his  
8 or her financial interest or those of his or her family  
9 members or any business with which the person is associated in  
10 a manner different from the manner it affects the other  
11 members of the class to which he or she belongs. A conflict of  
12 interest ~~shall~~ does not include arise from any of the  
13 following:

14           "a. A loan or financial transaction made or  
15 conducted in the ordinary course of business.

16           "b. An occasional nonpecuniary award publicly  
17 presented by an organization for performance of public  
18 service.

19           "c. Payment of or reimbursement for actual and  
20 necessary expenditures for travel and subsistence for the  
21 personal attendance of a public ~~official or public employee~~  
22 servant at a convention or other meeting at which he or she is  
23 scheduled to meaningfully participate in connection with his  
24 or her official duties and for which attendance no  
25 reimbursement is made by the state.

26           "d. Any campaign contribution, including the  
27 purchase of tickets to, or advertisements in journals, for

1 political or testimonial dinners, if the contribution is  
2 actually used for political purposes and is not given under  
3 circumstances from which it could reasonably be inferred that  
4 the purpose of the contribution is to substantially influence  
5 a public official in the performance of his or her official  
6 duties.

7 "~~(9)~~ (8) DAY. Calendar day.

8 "~~(10)~~ (9) DEPENDENT. Any person, regardless of his  
9 or her legal residence or domicile, who receives 50 percent or  
10 more of his or her support from the public ~~official or public~~  
11 ~~employee~~ servant or his or her spouse or who resided with the  
12 public ~~official or public employee~~ servant for more than 180  
13 days during the reporting period.

14 "~~(11)~~ ~~FAMILY MEMBER OF THE PUBLIC EMPLOYEE. The~~  
15 ~~spouse or a dependent of the public employee.~~

16 "~~(12)~~ (10) FAMILY MEMBER OF THE PUBLIC ~~OFFICIAL~~  
17 SERVANT. The spouse, a dependent, an adult child and his or  
18 her spouse, a parent, a spouse's parents, a sibling and his or  
19 her spouse, of the public ~~official~~ servant.

20 "~~(13)~~ (11) GOVERNMENTAL CORPORATIONS AND  
21 AUTHORITIES. Public or private corporations and authorities,  
22 including but not limited to, hospitals or other health care  
23 corporations, established pursuant to state law by state,  
24 county or municipal governments for the purpose of carrying  
25 out a specific governmental function. Notwithstanding the  
26 foregoing, all employees, including contract employees, of



1 hospitals or other health care corporations and authorities  
2 are exempt from the provisions of this chapter.

3 ~~"(14)~~ (12) HOUSEHOLD. The public official, public  
4 employee, and his or her spouse and dependents.

5 ~~"(15)~~ (13) LAW ENFORCEMENT OFFICER. A full-time  
6 employee of a governmental unit responsible for the prevention  
7 or investigation of crime who is authorized by law to carry  
8 firearms, execute search warrants, and make arrests.

9 ~~"(16)~~ (14) LEGISLATIVE BODY. The Senate of Alabama,  
10 the House of Representatives of Alabama, a county commission,  
11 city council, city commission, town council, or municipal  
12 council or commission, and any committee or subcommittee  
13 thereof.

14 ~~"(17)~~ (15) LOBBYING.

15 "a. The practice of promoting, opposing, or in any  
16 manner influencing or attempting to influence any of the  
17 following:

18 "1. ~~The~~ the introduction, defeat, or enactment of  
19 legislation before any legislative body; ~~opposing or in any~~  
20 ~~manner influencing the.~~

21 "2. The executive approval, veto, or amendment of  
22 legislation; ~~or the practice of promoting, opposing, or in any~~  
23 ~~manner influencing or attempting to influence the.~~

24 "3. The enactment, promulgation, modification, or  
25 deletion of regulations before any regulatory body; ~~provided,~~  
26 ~~however, that.~~

1                   "4. The awarding of a grant or contract by any  
2 executive, legislative, or judicial department, agency, or  
3 other body.

4                   "b. The term does not include providing public  
5 testimony before a legislative body or regulatory body or any  
6 committee thereof ~~shall not be deemed lobbying.~~

7                   ~~"(18)~~ (16) LOBBYIST.

8                   "a. The term lobbyist includes any of the following:

9                   "1. A person who receives compensation or  
10 reimbursement from another person, group, or entity to lobby.

11                   "2. A person who lobbies as a regular and usual part  
12 of employment, whether or not any compensation in addition to  
13 regular salary and benefits is received.

14                   "3. A person who expends in excess of one hundred  
15 dollars (\$100) for a thing of value, not including funds  
16 expended for the person's travel, subsistence expenses, and  
17 literature, buttons, stickers, publications, or other acts of  
18 free speech, during a calendar year to lobby.

19                   "4. A consultant to the state, county, or municipal  
20 levels of government or their instrumentalities, in any manner  
21 employed to influence legislation or regulation, regardless  
22 whether the consultant is paid in whole or part from state,  
23 county, municipal, or private funds.

24                   "5. An employee, a paid consultant, or a member of  
25 the staff of a lobbyist, whether or not he or she is paid, who  
26 regularly communicates with members of a legislative body

1 regarding pending legislation and other matters while the  
2 legislative body is in session.

3 "b. The term lobbyist does not include any of the  
4 following:

5 "1. A member of a legislative body on a matter which  
6 involves that person's official duties.

7 "2. A person or attorney rendering professional  
8 services in drafting bills or in advising clients and in  
9 rendering opinions as to the construction and effect of  
10 proposed or pending legislation, executive action, or rules or  
11 regulations, where those professional services are not  
12 otherwise connected with legislative, executive, or regulatory  
13 action.

14 "3. Reporters and editors while pursuing normal  
15 reportorial and editorial duties.

16 "4. Any citizen not expending funds as set out above  
17 in paragraph a.3. or not lobbying for compensation who  
18 contacts a member of a legislative body or other public  
19 servant, or gives public testimony on a particular issue ~~or on~~  
20 ~~particular~~, legislation, or regulation, or for the purpose of  
21 influencing legislation, regulation, or the award of a grant  
22 or contract and who is merely exercising his or her  
23 constitutional right to communicate with members of a  
24 legislative body or other public servants.

25 "5. A person who appears before a legislative body,  
26 a regulatory body, or an executive agency to either sell or  
27 purchase goods or services.

1           "6. A person whose primary duties or  
2           responsibilities do not include lobbying, but who may, from  
3           time to time, organize social events for members of a  
4           legislative body to meet and confer with members of  
5           professional organizations and who may have only irregular  
6           contacts with members of a legislative body when the body is  
7           not in session or when the body is in recess.

8           "~~(19)~~ (17) MINOR VIOLATION. Any violation of this  
9           chapter in which the public ~~official or public employee~~  
10          servant receives an economic gain in an aggregate amount less  
11          than two hundred fifty dollars (\$250) or the governmental  
12          entity has an economic loss of less than two hundred fifty  
13          dollars (\$250).

14          "(18) NONPUBLIC INFORMATION. Information that the  
15          public servant gains by reason of his or her government  
16          position or office which is privileged or protected from  
17          public disclosure by law or which he or she knows or  
18          reasonably should know has not been made available to the  
19          general public.

20          "~~(20)~~ (19) PERSON. A business, individual,  
21          corporation, partnership, union, association, firm, committee,  
22          club, or other organization or group of persons.

23          "~~(21)~~ (20) PRINCIPAL. A person or business which  
24          employs, hires, or otherwise retains a lobbyist. Nothing in  
25          this chapter shall be deemed to prohibit a principal from  
26          simultaneously serving as his or her own lobbyist.

1           "~~(22)~~ (21) PROBABLE CAUSE. A finding that the  
2 allegations are more likely than not to have occurred. An  
3 evidentiary standard that is satisfied when reasonable grounds  
4 exist to believe that a violation of this chapter has occurred  
5 and that the respondent is the person who committed the  
6 violation.

7           "(22) PROHIBITED SOURCE. Any of the following  
8 persons:

9           "a. A lobbyist or any other person who is seeking  
10 official action by the public servant or his or her agency.

11           "b. A government contractor or any other person who  
12 does business or seeks to do business with the public  
13 servant's agency.

14           "c. A person who conducts activities regulated by  
15 the public servant or his or her agency.

16           "d. A person who has interests that may be  
17 substantially affected by performance or nonperformance of the  
18 public servant's official duties.

19           "(23) PUBLIC EMPLOYEE. Any person employed at the  
20 state, county, or municipal level of government or their  
21 instrumentalities, including governmental corporations and  
22 authorities, but excluding employees of hospitals or other  
23 health care corporations including contract employees of those  
24 hospitals or other health care corporations, who is paid in  
25 whole or in part from state, county or municipal funds. ~~For~~  
26 purposes of this chapter, a public employee does not include a  
27 person employed on a part-time basis whose employment is

1 ~~limited to providing professional services other than~~  
2 ~~lobbying, the compensation for which constitutes less than 50~~  
3 ~~percent of the part-time employee's income.~~

4 "(24) PUBLIC OFFICIAL. Any person elected to public  
5 office, whether or not that person has taken office, by the  
6 vote of the people at state, county, or municipal level of  
7 government or their instrumentalities, including governmental  
8 corporations, and any person appointed to a position at the  
9 state, county, or municipal level of government or their  
10 instrumentalities, including governmental corporations. For  
11 purposes of this chapter, a public official includes the  
12 chairs and vice-chairs or the equivalent offices of each state  
13 political party as defined in Section 17-16-2.

14 "(25) PUBLIC SERVANT. Any person who is a public  
15 official or a public employee.

16 "~~(25)~~ (26) REGULATORY BODY. A state agency which  
17 issues regulations in accordance with the Alabama  
18 Administrative Procedure Act or a state, county, or municipal  
19 department, agency, board, or commission which controls,  
20 according to rule or regulation, the activities, business  
21 licensure, or functions of any group, person, or persons.

22 "~~(26)~~ (27) REPORTING PERIOD. The reporting  
23 official's or employee's fiscal tax year as it applies to his  
24 or her United States personal income tax return.

25 "~~(27)~~ (28) REPORTING YEAR. The reporting official's  
26 or employee's fiscal tax year as it applies to his or her  
27 United States personal income tax return.

1           "~~(28)~~ (29) RESPONDENT. A person alleged to have  
2 violated a provision of this chapter and against whom a  
3 complaint has been filed with the commission.

4           "~~(29)~~ (30) STATEMENT OF ECONOMIC INTERESTS. A  
5 financial disclosure form made available by the commission  
6 which shall be completed and filed with the commission prior  
7 to April 30 of each year covering the preceding calendar year  
8 by certain public officials and public employees.

9           "~~(30)~~ (31) SUPERVISOR. Any person having authority  
10 to hire, transfer, suspend, lay off, recall, promote,  
11 discharge, assign, or discipline other public employees, or  
12 any person responsible to direct them, or to adjust their  
13 grievances, or to recommend personnel action, if, in  
14 connection with the foregoing, the exercise of the authority  
15 is not of a merely routine or clerical nature but requires the  
16 use of independent judgment.

17           "~~(31)~~ (32) THING OF VALUE.

18           "a. Any gift, benefit, favor, service, gratuity,  
19 discount, tickets or passes to an entertainment, social or  
20 sporting event ~~offered only to public officials~~, hospitality  
21 unsecured loan, ~~other than those loans made in the ordinary~~  
22 ~~course of business~~ forbearance, reward, promise of future  
23 employment, ~~or honoraria~~, or other item having monetary value.

24           "b. The term, thing of value, does not include any  
25 of the following, ~~provided that~~ if no particular course of  
26 action is required as a condition to the receipt thereof:

1           ~~"1. Campaign contribution. Modest food and~~  
2           ~~beverages, such as soft drinks, coffee and donuts, offered~~  
3           ~~other than as part of a meal.~~

4           ~~"2. Seasonal gifts of an insignificant economic~~  
5           ~~value of less than one hundred dollars (\$100) if the aggregate~~  
6           ~~value of such gifts from any single donor is less than two~~  
7           ~~hundred fifty dollars (\$250) during any one calendar year.~~  
8           ~~Items with little intrinsic value which are intended solely~~  
9           ~~for presentation, such as plaques, certificates, and trophies.~~

10           ~~"3. Hospitality extended to a public official,~~  
11           ~~public employee, and his or her respective household as a~~  
12           ~~social occasion in the form of food and beverages where the~~  
13           ~~provider is present, lodging in the continental United States~~  
14           ~~and Alaska incidental to the social occasion, and tickets to~~  
15           ~~social or sporting events if the hospitality does not extend~~  
16           ~~beyond three consecutive days and is not continuous in nature~~  
17           ~~and the aggregate value of such hospitality in excess of two~~  
18           ~~hundred fifty dollars (\$250) within a calendar day is reported~~  
19           ~~to the commission by the provider provided that the reporting~~  
20           ~~requirement contained in this section shall not apply where~~  
21           ~~the expenditures are made to or on behalf of an organization~~  
22           ~~to which a federal income tax deduction is permitted under~~  
23           ~~subparagraph (A) of paragraph (1) of subsection (b) of Section~~  
24           ~~170 of the Internal Revenue Code of 1986, as amended, or any~~  
25           ~~charitable, education or eleemosynary cause of Section 501 of~~  
26           ~~Title 26 of the U.S. Code, and where the public official or~~  
27           ~~public employee does not receive any direct financial benefit.~~



1 ~~The reporting shall include the name or names of the recipient~~  
2 ~~or recipients, the value of the entire expenditure, the date~~  
3 ~~or dates of the expenditure, and the type of expenditure.~~  
4 Loans from banks and other financial institutions on terms  
5 generally available to the public.

6 "4. ~~Reasonable transportation, food and beverages~~  
7 ~~where the provider is present, and lodging expenses in the~~  
8 ~~continental United States and Alaska which are provided in~~  
9 ~~conjunction with an educational or informational purpose,~~  
10 ~~together with any hospitality associated therewith; provided,~~  
11 ~~that such hospitality is less than 50 percent of the time~~  
12 ~~spent at such event, and provided further that if the~~  
13 ~~aggregate value of such transportation, lodging, food,~~  
14 ~~beverages, and any hospitality provided to such public~~  
15 ~~employee, public official, and his or her respective household~~  
16 ~~is in excess of two hundred fifty dollars (\$250) within a~~  
17 ~~calendar day the total amount expended shall be reported to~~  
18 ~~the commission by the provider. The reporting shall include~~  
19 ~~the name or names of the recipient or recipients, the value of~~  
20 ~~the entire expenditure, the date or dates of the expenditure,~~  
21 ~~and the type of expenditure. Opportunities and benefits,~~  
22 including favorable rates and commercial discounts, available  
23 to the public or to government employees as a general class.

24 "5. ~~Payment of or reimbursement for actual and~~  
25 ~~necessary expenditures for travel and subsistence of a public~~  
26 ~~official or public employee in connection with an economic~~  
27 ~~development research or trade mission, or for attendance at a~~

1 mission or meeting in which he or she is scheduled to  
2 meaningfully participate, or regarding matters related to his  
3 or her official duties, and for which attendance no  
4 reimbursement is made by the state; provided, that any  
5 hospitality in the form of entertainment, recreation, or  
6 sporting events shall constitute less than 25% of the time  
7 spent in connection with the event. If the aggregate value of  
8 any such hospitality extended to the public employee, public  
9 official, and his or her respective household is in excess of  
10 two hundred fifty dollars (\$250) within a calendar day, the  
11 total amount expended for that day shall be reported to the  
12 commission by the provider. The reporting shall include the  
13 name or names of the recipient or recipients, the value of  
14 such expenditures, the date or dates of the expenditure, and  
15 the type of expenditure. Anything that is paid for by the  
16 government or secured by the government under government  
17 contract.

18 "6. Promotional items commonly distributed to the  
19 general public and food or beverages of a nominal value.  
20 Anything for which the public servant pays full value.

21 "c. Nothing in this chapter shall be deemed to  
22 limit, prohibit, or otherwise require the disclosure of a  
23 personal gift made to a public official or public employee  
24 from a spouse, intended spouse, dependent, adult child,  
25 sibling, parent, grandparent, uncle, aunt, nephews, nieces or  
26 cousins of the public official or public employee, except as  
27 otherwise provided by law.

1           "~~d. c.~~ Nothing in this chapter shall be deemed to  
2 limit, prohibit, or otherwise require the disclosure of gifts  
3 through inheritance received by a public employee or public  
4 official.

5           "~~(32)~~ (33) VALUE. The fair market price of a like  
6 item if purchased by a private citizen."

7           Section 3. Section 36-25-2, Code of Alabama 1975, is  
8 amended to read as follows:

9           "§36-25-2.

10           "Legislative findings and declarations; purpose of  
11 chapter.

12           "(a) The Legislature hereby finds and declares:

13           "(1) It is essential to the proper operation of  
14 democratic government that public ~~officials~~ servant be  
15 independent and impartial.

16           "(2) Governmental decisions and policy should be  
17 made in the proper channels of the governmental structure.

18           "(3) No public office or position should be used for  
19 private gain other than the remuneration provided by law.

20           "(4) It is important that there be public confidence  
21 in the integrity of government.

22           "(5) The attainment of one or more of the ends set  
23 forth in this subsection is impaired whenever there exists a  
24 conflict of interest between the private interests of a public  
25 ~~official or a public employee~~ servant and the duties of the  
26 public ~~official or public employee~~ servant.

1           "(6) The public interest requires that the law  
2 protect against such conflicts of interest and establish  
3 appropriate ethical standards with respect to the conduct of  
4 public ~~officials and public employees~~ servants in situations  
5 where conflicts exist or appear to exist from the perspective  
6 of a reasonable person with knowledge of the relevant facts.

7           "(b) It is also essential to the proper operation of  
8 government that those best qualified be encouraged to serve in  
9 government. Accordingly, legal safeguards against conflicts of  
10 interest shall be so designed as not to unnecessarily or  
11 unreasonably impede the service of those men and women who are  
12 elected or appointed to do so. An essential principle  
13 underlying the staffing of our governmental structure is that  
14 its public officials and public employees should not be denied  
15 the opportunity, available to all other citizens, to acquire  
16 and retain private economic and other interests, except where  
17 conflicts with the responsibility of public ~~officials and~~  
18 ~~public employees~~ servants to the public cannot be avoided.

19           "(c) The Legislature declares that the operation of  
20 responsible democratic government requires that the fullest  
21 opportunity be afforded to the people to petition their  
22 government for the redress of grievances and to express freely  
23 to the legislative bodies and to officials of the Executive  
24 Branch, their opinions on legislation, on pending governmental  
25 actions, and on current issues. To preserve and maintain the  
26 integrity of the legislative and administrative processes, it  
27 is necessary that the identity, expenditures, and activities

1 of certain persons who engage in efforts to persuade members  
2 of the legislative bodies or members of the Executive Branch  
3 to take specific actions, either by direct communication to  
4 these officials, or by solicitation of others to engage in  
5 such efforts, be publicly and regularly disclosed. This  
6 chapter shall be liberally construed to promote complete  
7 disclosure of all relevant information and to insure that the  
8 public interest is fully protected.

9 "(d) It is the policy and purpose of this chapter to  
10 implement these objectives of protecting the integrity of all  
11 governmental units of this state and of facilitating the  
12 service of qualified personnel by prescribing essential  
13 restrictions against conflicts of interest and prudent  
14 protections against the appearance of conflicts of interest in  
15 public service without creating unnecessary barriers thereto."

16 Section 4. Section 36-25-30, Code of Alabama 1975,  
17 is amended and renumbered to read:

18 "~~§36-25-30.~~ §36-25-3.

19 "(a) This chapter shall be construed in pari materia  
20 with other laws dealing with the subject of ethics.

21 "(b) Nothing in this chapter shall be deemed to  
22 limit the right of a public servant to publicly or privately  
23 express his or her support for or to encourage others to  
24 support and contribute to any candidate, political action  
25 committee as defined in Section 17-5-2, referendum, ballot  
26 question, issue, or constitutional amendment.

1           "(c) Nothing in this chapter shall be construed as  
2 to deprive any citizen of the citizen's constitutional right  
3 to communicate with members of the Legislature or other public  
4 servants."

5           Section 5. Section 36-25-29, Code of Alabama 1975,  
6 is amended and renumbered to read:

7           "~~§36-25-29.~~ §36-25-4.

8           "The Legislature shall appropriate such sums as it  
9 deems necessary to implement the provisions of and administer  
10 this chapter."

11          Section 6. A new Section 36-25-5 is added to the  
12 Code of Alabama 1975, to read:

13          §36-25-5.

14          The commission, by April 1, 2010, shall implement  
15 and maintain each of the following:

16                 (1) A system for electronic filing of complaints and  
17 all statements, reports, registrations, and notices required  
18 by this chapter.

19                 (2) An electronic database accessible to the public  
20 through an Internet website which provides at least the  
21 following capabilities:

22                         a. Search and retrieval of all statements, reports,  
23 and other filings required by this chapter, excluding  
24 complaints, by the name of the public servant to which they  
25 pertain.

26                         b. Generation of an aggregate list of all things of  
27 value provided to each public servant and family member of a

1 public servant as reported pursuant to Section 36-25-71,  
2 searchable and retrievable by the name of the public servant.

3 Section 7. An article heading is added preceding  
4 Section 36-25-3 of the Code of Alabama 1975, to read:

5 "ARTICLE 2. STATE ETHICS COMMISSION"

6 Section 8. Section 36-25-3, Code of Alabama 1975, is  
7 amended and renumbered to read:

8 "~~§36-25-3.~~ §36-25-10.

9 "(a) There is hereby created a State Ethics  
10 Commission composed of five members, each of whom shall be a  
11 fair, equitable citizen of this state and of high moral  
12 character and ability. The following persons shall not be  
13 eligible to be appointed as members: (1) a public official;  
14 (2) a candidate; (3) a registered lobbyist and his or her  
15 principal; or (4) a former employee of the commission. For  
16 purposes of this section, a public ~~official~~ servant shall not  
17 be deemed to include a part-time municipal judge and a  
18 registered lobbyist shall not be deemed to include a person  
19 whose lobbying activities are limited to providing public  
20 testimony to a legislative body or regulatory body or  
21 committee thereof.

22 "(b) No member of the commission shall be eligible  
23 for reappointment to succeed himself or herself. The members  
24 of the commission shall be appointed by the following  
25 officers: the Governor, the Lieutenant Governor, or in the  
26 absence of a Lieutenant Governor, the Presiding Officer of the  
27 Senate, and the Speaker of the House of Representatives; and

1 shall assume their duties ~~upon confirmation by the Senate~~ ad  
2 interim, until confirmation or rejection by the Senate. The  
3 members of the first commission shall be appointed for terms  
4 of office expiring one, two, three, four and five years,  
5 respectively, from September 1, 1975. Successors to the  
6 members of the first commission shall serve for a term of five  
7 years beginning service on September 1 of the year appointed  
8 and serving until their successors are appointed ~~and~~  
9 ~~confirmed. If at any time there should be a vacancy on the~~  
10 ~~commission, a successor member to serve for the unexpired term~~  
11 ~~applicable to such vacancy shall be appointed by the Governor.~~  
12 ~~The commission shall elect one member to serve as chair of the~~  
13 ~~commission and one member to serve as vice chair. The vice~~  
14 ~~chair shall act as chair in the absence or disability of the~~  
15 ~~chair or in the event of a vacancy in that office. No~~  
16 ~~appointee whose confirmation is rejected by the Senate may be~~  
17 ~~reappointed.~~

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

24 "~~(b) A vacancy in the commission shall not impair~~  
25 ~~the right of the remaining members to exercise all the powers~~  
26 ~~of the commission, and three members thereof shall constitute~~  
27 ~~a quorum.~~



1           ~~"(c) The commission shall at the close of each~~  
2 ~~fiscal year, or as soon thereafter as practicable, report to~~  
3 ~~the Legislature and the Governor concerning the actions it has~~  
4 ~~taken, the name, salary, and duties of the director, the names~~  
5 ~~and duties of all individuals in its employ, the money it has~~  
6 ~~disbursed, other relevant matters within its jurisdiction, and~~  
7 ~~such recommendations for legislation as the commission deems~~  
8 ~~appropriate.~~

9           ~~"(d) Members of the commission shall, while serving~~  
10 ~~on the business of the commission, be entitled to receive~~  
11 ~~compensation at the rate of fifty dollars (\$50) per day, and~~  
12 ~~each member shall be paid his or her travel expenses incurred~~  
13 ~~in the performance of his or her duties as a member of the~~  
14 ~~commission as other state employees and officials are paid~~  
15 ~~when approved by the chair. If for any reason a member of the~~  
16 ~~commission wishes not to claim and accept the compensation or~~  
17 ~~travel expenses, the member shall inform the director, in~~  
18 ~~writing, of the refusal. The member may at any time during his~~  
19 ~~or her term begin accepting compensation or travel expenses;~~  
20 ~~however, the member's refusal for any covered period shall act~~  
21 ~~as an irrevocable waiver for that period.~~

22           ~~"(c) If at any time there should be a vacancy on the~~  
23 ~~commission, a successor member to serve for the unexpired term~~  
24 ~~applicable to such vacancy shall be appointed by the Governor~~  
25 ~~and shall continue to serve until a successor is appointed and~~  
26 ~~confirmed as provided by this section. A vacancy in the~~  
27 ~~commission shall not impair the right of the remaining members~~

1 to exercise all the powers of the commission, and three  
2 members thereof shall constitute a quorum.

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

11 "(d) The commission shall elect one member to serve  
12 as chair of the commission and one member to serve as vice  
13 chair. The vice chair shall act as chair in the absence or  
14 disability of the chair or in the event of a vacancy in that  
15 office.

16 ~~"(f) The commission shall appoint a full-time~~  
17 ~~director. The director shall serve at the pleasure of the~~  
18 ~~commission and shall appoint such other employees as needed.~~  
19 ~~All such employees, except the director, shall be employed~~  
20 ~~subject to the provisions of the state Merit System law, and~~  
21 ~~their compensation shall be prescribed pursuant to such law.~~  
22 ~~The employment of attorneys shall be subject to subsection~~  
23 ~~(h). The compensation of the director shall be fixed by the~~  
24 ~~commission, payable as the salaries of other state employees.~~  
25 ~~The director shall be responsible for the administrative~~  
26 ~~operations of the commission and shall administer this chapter~~  
27 ~~in accordance with the commission's policies. No regulation~~

1 shall be implemented by the director until adopted by the  
2 commission in accordance with Sections 41-22-1 to 41-22-27,  
3 inclusive, the Alabama Administrative Procedure Act.

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

12 "(h) The director may, with the approval of the  
13 Attorney General, appoint a competent attorney as legal  
14 counsel for the commission. The legal counsel shall be of good  
15 moral and ethical character, licensed to practice law in this  
16 state, and a member in good standing of the Alabama Bar  
17 Association. The legal counsel shall be commissioned as an  
18 assistant or deputy attorney general and shall, in addition to  
19 the powers and duties herein conferred, have the authority and  
20 duties of an assistant or deputy attorney general, except,  
21 that his or her entire time shall be devoted to the  
22 commission. The attorney shall act as an attorney for the  
23 commission in actions or proceedings brought by or against the  
24 commission pursuant to any provisions of law under the  
25 commission's jurisdiction, or in which the commission joins or  
26 intervenes as to a matter within the commission's  
27 jurisdiction, or as a friend of the court or otherwise;

1 provided however, nothing in this chapter shall be deemed as a  
2 direct grant of subpoena power to the commission.

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

10 ~~Investigators shall meet the requirements of the Alabama Peace~~  
11 ~~Officers' Standards and Training Act, Sections 36-21-40 to~~  
12 ~~36-21-51, inclusive, and shall in all ways and for all~~  
13 ~~purposes be considered law enforcement officers entitled to~~  
14 ~~all benefits provided in Section 36-15-6(f); provided however~~  
15 ~~such investigators shall only exercise their power of arrest~~  
16 ~~as granted under this chapter pursuant to an order issued by a~~  
17 ~~court of competent jurisdiction."~~

18 Section 9. A new Section 36-25-11 is added to the  
19 Code of Alabama 1975, to read:

20 §36-25-11.

21 Members of the commission, while serving on the  
22 business of the commission, shall be entitled to receive  
23 compensation at the rate of fifty dollars (\$50) per day, and  
24 each member shall be paid his or her travel expenses incurred  
25 in the performance of his or her duties as a member of the  
26 commission as other state employees and officials are paid  
27 when approved by the chair. If for any reason a member of the

1 commission wishes not to claim and accept the compensation or  
2 travel expenses, the member shall inform the director, in  
3 writing, of the refusal. The member may at any time during his  
4 or her term begin accepting compensation or travel expenses;  
5 however, the member's refusal for any covered period shall act  
6 as an irrevocable waiver for that period.

7 Section 10. Section 36-25-12 is added to the Code of  
8 Alabama 1975, to read:

9 §36-25-12.

10 All members, officers, agents, attorneys, and  
11 employees of the commission shall be subject to this chapter.  
12 The director, members of the commission, and all employees of  
13 the commission may not engage in direct partisan political  
14 activity, including the making of campaign contributions, on  
15 the state, county, and local levels. The prohibition shall in  
16 no way act to limit or restrict such persons' ability to vote  
17 in any election.

18 Section 11. Section 36-25-4, Code of Alabama 1975,  
19 is amended and renumbered to read:

20 "~~§36-25-4.~~ §36-25-13.

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

22 "(1) Submit an annual report at the close of each  
23 fiscal year, or as soon thereafter as practicable, to the  
24 Legislature and the Governor concerning the actions it has  
25 taken, the name, salary, and duties of the director, the names  
26 and duties of all individuals in its employ, the money it has  
27 disbursed, other relevant matters within its jurisdiction, and

1 such recommendations for legislation as the commission deems  
2 appropriate.

3 ~~"(1)~~ (2) Prescribe forms for statements required to  
4 be filed by this chapter and make the forms available to  
5 persons required to file such statements.

6 ~~"(2)~~ (3) Prepare guidelines setting forth  
7 recommended uniform methods of reporting for use by persons  
8 required to file statements required by this chapter.

9 ~~"(3)~~ (4) Accept and file any written information  
10 voluntarily supplied that exceeds the requirements of this  
11 chapter.

12 ~~"(4)~~ (5) Develop, where practicable, a filing,  
13 coding, and cross-indexing system consistent with the purposes  
14 of this chapter.

15 ~~"(5)~~ (6) Make reports and statements filed with the  
16 commission available during regular business hours and online  
17 via the Internet to public inquiry subject to such regulations  
18 as the commission may prescribe including, but not limited to,  
19 regulations requiring identification by name, occupation,  
20 address, and telephone number of each person examining  
21 information on file with the commission.

22 ~~"(6)~~ (7) Preserve reports and statements for a  
23 period consistent with the statute of limitations as contained  
24 in this chapter. The reports and statements, when no longer  
25 required to be retained, shall be disposed of by shredding the  
26 reports and statements and disposing of or recycling them, or  
27 otherwise disposing of the reports and statements in any other

1 manner prescribed by law. Nothing in this section shall in any  
2 manner limit the Department of Archives and History from  
3 receiving and retaining any documents pursuant to existing  
4 law.

5 ~~"(7)~~ (8) Make investigations with respect to  
6 statements filed pursuant to this chapter, and with respect to  
7 alleged failures to file, or omissions contained therein, any  
8 statement required pursuant to this chapter and, upon  
9 complaint by any individual, with respect to alleged violation  
10 of any part of this chapter to the extent authorized by law.  
11 ~~when~~ When in its opinion a thorough audit of any person or any  
12 business should be made in order to determine whether this  
13 chapter has been violated, the commission shall direct the  
14 Examiner of Public Accounts to have an audit made and a report  
15 thereof filed with the commission. The Examiner of Public  
16 Accounts shall, upon receipt of the directive, comply  
17 therewith.

18 ~~"(8)~~ (9) Report suspected violations of law to the  
19 appropriate law-enforcement authorities.

20 ~~"(9) Issue and publish advisory opinions on the~~  
21 ~~requirements of this chapter, based on a real or hypothetical~~  
22 ~~set of circumstances. Such advisory opinions shall be adopted~~  
23 ~~by a majority vote of the members of the commission present~~  
24 ~~and shall be effective and deemed valid until expressly~~  
25 ~~overruled or altered by the commission or a court of competent~~  
26 ~~jurisdiction. The written advisory opinions of the commission~~  
27 ~~shall protect the person at whose request the opinion was~~

1 ~~issued and any other person reasonably relying, in good faith,~~  
2 ~~on the advisory opinion in a materially like circumstance from~~  
3 ~~liability to the state, a county, or a municipal subdivision~~  
4 ~~of the state because of any action performed or action~~  
5 ~~refrained from in reliance of the advisory opinion. Nothing in~~  
6 ~~this section shall be deemed to protect any person relying on~~  
7 ~~the advisory opinion if the reliance is not in good faith, is~~  
8 ~~not reasonable, is not in a materially like circumstance. The~~  
9 ~~commission may impose reasonable charges for publication of~~  
10 ~~the advisory opinions and monies shall be collected,~~  
11 ~~deposited, dispensed, or retained as provided herein. On~~  
12 ~~October 1, 1995, all prior advisory opinions of the commission~~  
13 ~~in conflict with this chapter, shall be ineffective and~~  
14 ~~thereby deemed invalid and otherwise overruled unless there~~  
15 ~~has been any action performed or action refrained from in~~  
16 ~~reliance of a prior advisory opinion.~~

17           "(10) Initiate and continue, where practicable,  
18 programs for the purpose of educating candidates, officials,  
19 employees, and citizens of Alabama on matters of ethics in  
20 government service, including online ethics training seminars.

21           "(11) In accordance with Sections 41-22-1 to  
22 41-22-27, inclusive, the Alabama Administrative Procedure Act,  
23 prescribe, publish, and enforce rules ~~and regulations~~ to carry  
24 out this chapter.

25           "~~(b) A complaint filed pursuant to this chapter,~~  
26 ~~together with any statement, evidence, or information received~~  
27 ~~from the complainant, witnesses, or other persons shall be~~



1 ~~protected by and subject to the same restrictions relating to~~  
2 ~~secrecy and nondisclosure of information, conversation,~~  
3 ~~knowledge, or evidence of Sections 12-16-214 to 12-16-216,~~  
4 ~~inclusive. Such restrictions shall apply to all investigatory~~  
5 ~~activities taken by the director, the commission or a member~~  
6 ~~thereof, staff, employees, or any person engaged by the~~  
7 ~~commission in response to a complaint filed with the~~  
8 ~~commission and to all proceedings relating thereto before the~~  
9 ~~commission.~~

10 ~~"(c) The commission shall not take any investigatory~~  
11 ~~action on a telephonic or written complaint against a~~  
12 ~~respondent so long as the complainant remains anonymous.~~  
13 ~~Investigatory action on a complaint from an identifiable~~  
14 ~~source shall not be initiated until the true identity of the~~  
15 ~~source has been ascertained and written verification of such~~  
16 ~~ascertainment is in the commission's files. The complaint may~~  
17 ~~only be filed by a person who has or persons who have actual~~  
18 ~~knowledge of the allegations contained in the complaint. A~~  
19 ~~complainant may not file a complaint for another person or~~  
20 ~~persons in order to circumvent this subsection. Prior to~~  
21 ~~commencing any investigation, the commission shall: (1)~~  
22 ~~receive a written and signed complaint which sets forth in~~  
23 ~~detail the specific charges against a respondent, and the~~  
24 ~~factual allegations which support such charges and (2) the~~  
25 ~~director shall conduct a preliminary inquiry in order to make~~  
26 ~~an initial determination that reasonable cause exists to~~  
27 ~~conduct an investigation. If the director determines~~

1 reasonable cause does not exist, the charges shall be  
2 dismissed, but such action must be reported to the commission.  
3 The commission shall be entitled to authorize an investigation  
4 upon a unanimous written consent of all five (5) commission  
5 members, upon an express finding that probable cause exists  
6 that a violation or violations of this chapter have occurred.  
7 A complaint may be initiated by the unanimous vote of the  
8 commission, provided, however, that the commission shall not  
9 conduct the hearing, but rather the hearing shall be conducted  
10 by three (3) active or retired judges, who shall be appointed  
11 by the Chief Justice of the Alabama Supreme Court, at least  
12 one of whom shall be Black. The three (3) judge panel shall  
13 conduct the hearing in accordance with the procedures  
14 contained in this chapter and in accordance with the rules and  
15 regulations of the commission. If the three (3) judge panel  
16 unanimously finds that a person covered by this chapter has  
17 violated it, the three (3) judge panel shall forward the case  
18 to the district attorney for the jurisdiction in which the  
19 alleged acts occurred or to the Attorney General. In all  
20 matters that come before the commission concerning a complaint  
21 on an individual, the laws of due process shall apply.

22 "(d) Not less than 45 days prior to any hearing  
23 before the commission, the respondent shall be given notice  
24 that a complaint has been filed against him or her and shall  
25 be given a summary of the charges contained therein. Upon the  
26 timely request of the respondent, a continuance of the hearing  
27 for not less than 30 days shall be granted for good cause

1 shown. The respondent charged in the complaint shall have the  
2 right to be represented by retained legal counsel. The  
3 commission may not require the respondent to be a witness  
4 against himself or herself.

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

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

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

16 ~~"(g) If the commission finds cause that a person~~  
17 ~~covered by this chapter has violated it, the case and the~~  
18 ~~commission's findings shall be forwarded to the district~~  
19 ~~attorney for the jurisdiction in which the alleged acts~~  
20 ~~occurred or to the Attorney General. The case, along with the~~  
21 ~~commission's findings, shall be referred for appropriate legal~~  
22 ~~action. Nothing in this section shall be deemed to limit the~~  
23 ~~commission's ability to take appropriate legal action when so~~  
24 ~~requested by the district attorney for the appropriate~~  
25 ~~jurisdiction or by the Attorney General."~~

26 Section 12. Section 36-25-14 is added to the Code of  
27 Alabama 1975, to read:

1 §36-25-14.

2 (a) The commission shall issue and publish advisory  
3 opinions on the requirements of this chapter, based on a real  
4 or hypothetical set of circumstances. Such advisory opinions  
5 shall be adopted by a majority vote of the members of the  
6 commission present and shall be effective and deemed valid  
7 until expressly overruled or altered by the commission or a  
8 court of competent jurisdiction.

9 (b) The written advisory opinions of the commission  
10 shall protect the person at whose request the opinion was  
11 issued and any other person reasonably relying, in good faith,  
12 on the advisory opinion in a materially like circumstance from  
13 liability to the state, a county, or a municipal subdivision  
14 of the state because of any action performed or action  
15 refrained from in reliance of the advisory opinion. Nothing in  
16 this section shall be deemed to protect any person relying on  
17 the advisory opinion if the reliance is not in good faith, is  
18 not reasonable, or is not in a materially like circumstance.

19 (c) The commission may impose reasonable charges for  
20 publication of the advisory opinions and monies shall be  
21 collected, deposited, dispensed, or retained as provided  
22 herein.

23 (d) On July 1, 2009, this chapter shall supersede  
24 all prior advisory opinions of the commission in conflict with  
25 this chapter. Any person who relied on an advisory opinion  
26 issued before July 1, 2009, shall be protected pursuant to  
27 subsection (b) with respect to conduct occurring before that

1 date in reliance on the prior advisory opinion, but shall be  
2 subject to this chapter, notwithstanding the prior advisory  
3 opinion, with respect to all conduct occurring thereafter.

4 Section 13. Section 36-25-15 is added to the Code of  
5 Alabama 1975, to read:

6 §36-25-15.

7 (a) The commission shall appoint a full-time  
8 director. The director shall serve at the pleasure of the  
9 commission and shall appoint such other employees as needed.  
10 All such employees, except the director, shall be employed  
11 subject to the provisions of the state Merit System law, and  
12 their compensation shall be prescribed pursuant to such law.  
13 The employment of attorneys shall be subject to subsection  
14 (c). The compensation of the director shall be fixed by the  
15 commission, payable as the salaries of other state employees.  
16 The director shall be responsible for the administrative  
17 operations of the commission and shall administer this chapter  
18 in accordance with the commission's policies. No regulation  
19 shall be implemented by the director until adopted by the  
20 commission in accordance with Sections 41-22-1 to 41-22-27,  
21 inclusive, the Alabama Administrative Procedure Act.

22 (b) The director may appoint part-time stenographic  
23 reporters or certified court reporters, as needed, to take and  
24 transcribe the testimony in any formal or informal hearing or  
25 investigation before the commission or before any person  
26 authorized by the commission. The reporters shall not be  
27 full-time employees of the commission and shall not be subject

1 to the Merit System law and may not participate in the State  
2 Retirement System.

3 (c) The director may, with the approval of the  
4 Attorney General, appoint a competent attorney as legal  
5 counsel for the commission. The legal counsel shall be of good  
6 moral and ethical character, licensed to practice law in this  
7 state, and a member in good standing of the Alabama Bar  
8 Association. The legal counsel shall be commissioned as an  
9 assistant or deputy attorney general and shall, in addition to  
10 the powers and duties herein conferred, have the authority and  
11 duties of an assistant or deputy attorney general, except,  
12 that his or her entire time shall be devoted to the  
13 commission. The attorney shall act as an attorney for the  
14 commission in actions or proceedings brought by or against the  
15 commission pursuant to any provisions of law under the  
16 commission's jurisdiction, or in which the commission joins or  
17 intervenes as to a matter within the commission's  
18 jurisdiction, or as a friend of the court or otherwise.

19 (d) The director shall designate in writing the  
20 chief investigator, should there be one, and a maximum of six  
21 full-time investigators who shall be and are hereby  
22 constituted law enforcement officers of the State of Alabama  
23 with full and unlimited police power and jurisdiction to  
24 enforce the laws of this state pertaining to the operation and  
25 administration of the commission and this chapter.  
26 Investigators shall meet the requirements of the Alabama Peace  
27 Officers' Standards and Training Act, Sections 36-21-40 to

1 36-21-51, inclusive, and shall in all ways and for all  
2 purposes be considered law enforcement officers; provided,  
3 however, such investigators shall only exercise their power of  
4 arrest as granted under this chapter pursuant to an order  
5 issued by a court of competent jurisdiction.

6 Section 14. Section 36-25-16 is added to the Code of  
7 Alabama 1975, to read:

8 §36-25-16.

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

14 Section 15. A new article heading is added following  
15 Section 36-25-16 of the Code of Alabama 1975, to read:

16 "ARTICLE 3. COMPLAINTS AND INVESTIGATIONS"

17 Section 16. Sections 36-25-20, 36-25-21, 36-25-22,  
18 36-25-23, 36-25-24, 36-25-25, and 36-25-26 are added to the  
19 Code of Alabama 1975, to read:

20 §36-25-20.

21 A complaint filed pursuant to this chapter, together  
22 with any statement, evidence, or information received from the  
23 complainant, witnesses, or other persons shall be protected by  
24 and subject to the same restrictions relating to secrecy and  
25 nondisclosure of information, conversation, knowledge, or  
26 evidence of Sections 12-16-214 to 12-16-216, inclusive. Such  
27 restrictions shall apply to all investigatory activities taken

1 by the director, the commission or a member thereof, staff,  
2 employees, or any person engaged by the commission in response  
3 to a complaint filed with the commission and to all  
4 proceedings relating thereto before the commission.

5 §36-25-21.

6 The commission may not take any investigatory action  
7 on a telephonic or written complaint against a respondent so  
8 long as the complainant remains anonymous. Investigatory  
9 action on a complaint from an identifiable source may not be  
10 initiated until the true identity of the source has been  
11 ascertained and written verification of such ascertainment is  
12 in the commission's files.

13 §36-25-22.

14 (a) Upon the filing of a complaint by any person  
15 other than the commission or a member thereof, the director  
16 shall conduct a preliminary inquiry and forward the complaint  
17 to the commission for further proceedings under this article  
18 only if he or she finds that the complaint satisfies all of  
19 the following criteria:

20 (1) That the complaint sets forth in detail the  
21 specific charges against a respondent and the factual  
22 allegations which support such charges.

23 (2) That the complaint is supported by verifiable  
24 information.

25 (3) That reasonable cause exists to conduct an  
26 investigation.



1 (b) If the director finds that the complaint fails  
2 to satisfy the requirements of subsection (a), the complaint  
3 shall be dismissed, but such action must be reported to the  
4 commission.

5 §36-25-23.

6 (a) A complaint may be initiated by the unanimous  
7 vote of the commission.

8 (b) Whenever a complaint is initiated by the  
9 commission under this section, the commission shall not  
10 conduct the hearing, but rather the hearing shall be conducted  
11 by three active or retired judges, who shall be appointed by  
12 the Chief Justice of the Alabama Supreme Court, at least one  
13 of whom shall be Black. The three judge panel shall conduct  
14 the hearing in accordance with the procedures contained in  
15 this chapter and in accordance with the rules and regulations  
16 of the commission. If the three judge panel unanimously finds  
17 that a person covered by this chapter has violated it, the  
18 three judge panel shall forward the case to the district  
19 attorney for the jurisdiction in which the alleged acts  
20 occurred or to the Attorney General.

21 §36-25-24.

22 (a) In all matters that come before the commission  
23 concerning a complaint on an individual, the laws of due  
24 process shall apply.

25 (b) Not less than 45 days prior to any hearing  
26 before the commission, the respondent shall be given notice  
27 that a complaint has been filed against him or her and shall

1 be given a summary of the charges contained therein. Upon the  
2 timely request of the respondent, a continuance of the hearing  
3 for not less than 30 days shall be granted for good cause  
4 shown.

5 (c) The respondent charged in the complaint shall  
6 have the right to be represented by retained legal counsel.  
7 The commission may not require the respondent to be a witness  
8 against himself or herself.

9 (d) The commission shall provide discovery to the  
10 respondent pursuant to the Alabama Rules of Criminal Procedure  
11 as promulgated by the Alabama Supreme Court.

12 §36-25-25.

13 (a) In the course of an investigation, the  
14 commission may subpoena witnesses and compel their attendance,  
15 and may also require the production of books, papers,  
16 documents, and other evidence. If any person fails to comply  
17 with any subpoena lawfully issued, or if any witness refuses  
18 to produce evidence or to testify as to any matter relevant to  
19 the investigation, it shall be the duty of any court of  
20 competent jurisdiction or the judge thereof, upon the  
21 application of the director to compel obedience by attachment  
22 proceedings for contempt, as in the case of disobedience of  
23 the requirements of a subpoena issued for such court or a  
24 refusal to testify therein. A subpoena shall be issued only  
25 upon the express written authorization of the director with  
26 the approval of a majority of the commission.

1 (b) If the commission finds probable cause that a  
2 person covered by this chapter has violated it, the case and  
3 the commission's findings shall be forwarded to the district  
4 attorney for the jurisdiction in which the alleged acts  
5 occurred or to the Attorney General. The case, along with the  
6 commission's findings, shall be referred for appropriate legal  
7 action. Nothing in this section shall be deemed to limit the  
8 commission's ability to take appropriate legal action when so  
9 requested by the district attorney for the appropriate  
10 jurisdiction or by the Attorney General.

11 §36-25-26.

12 Within 180 days of receiving a case referred by the  
13 commission, the Attorney General or district attorney to whom  
14 the case was referred shall respond to the commission, in  
15 writing, stating whether he or she intends to take action  
16 against the respondent, including an administrative  
17 disposition or settlement, conduct further investigation, or  
18 close the case without taking action. If the Attorney General  
19 or district attorney decides to close the case, he or she  
20 shall state the reasons in writing. If the Attorney General  
21 or district attorney decides to pursue the case, he or she  
22 shall send the commission a status report every 180 days and a  
23 final report upon final disposition of the case. The reports  
24 required by this section shall be maintained by the commission  
25 and made available upon request as a public record.

26 Section 17. A new article heading is added preceding  
27 Section 36-25-5 of the Code of Alabama 1975, to read:

1                   "ARTICLE 4. MISUSE OF OFFICIAL POSITION"

2                   Section 18. Section 36-25-5, Code of Alabama 1975,  
3 is amended and renumbered to read:

4                   "~~§36-25-5.~~ §36-25-30.

5                   "(a) ~~No public official or public employee~~ Unless  
6 otherwise specifically authorized by law, a public servant  
7 shall not use or cause to be used his or her official position  
8 or office ~~to obtain~~ for the purpose of obtaining personal gain  
9 for himself or herself, or a family member of the public  
10 ~~employee or family member of the public official~~ servant, or  
11 any business with which the person is associated. ~~unless the~~  
12 ~~use and gain are otherwise specifically authorized by law.~~  
13 ~~Personal~~ For purposes of determining when the limitations  
14 period begins to run, personal gain is achieved when the  
15 public ~~official, public employee~~ servant, or a family member  
16 thereof, receives, obtains, exerts control over, or otherwise  
17 converts to personal use the object constituting such personal  
18 gain.

19                   "(b) Unless prohibited by the Constitution of  
20 Alabama of 1901, nothing herein shall be construed to prohibit  
21 a public official from introducing bills, ordinances,  
22 resolutions, or other legislative matters, serving on  
23 committees, or making statements or taking action in the  
24 exercise of his or her duties as a public official. ~~A member~~  
25 ~~of a legislative body may not vote for any legislation in~~  
26 ~~which he or she knows or should have known that he or she has~~  
27 ~~a conflict of interest.~~

1           ~~"(c) No public official or public employee shall use~~  
2           ~~or cause to be used equipment, facilities, time, materials,~~  
3           ~~human labor, or other public property under his or her~~  
4           ~~discretion or control for the private benefit or business~~  
5           ~~benefit of the public official, public employee, any other~~  
6           ~~person, or principal campaign committee as defined in Section~~  
7           ~~17-22A-2, which would materially affect his or her financial~~  
8           ~~interest, except as otherwise provided by law or as provided~~  
9           ~~pursuant to a lawful employment agreement regulated by agency~~  
10           ~~policy. Provided, however, nothing in this subsection shall be~~  
11           ~~deemed to limit or otherwise prohibit communication between~~  
12           ~~public officials or public employees and eleemosynary or~~  
13           ~~membership organizations or such organizations communicating~~  
14           ~~with public officials or public employees. A member of a~~  
15           ~~legislative body may not vote regarding any legislation in~~  
16           ~~which he or she knows or should have known that he or she has~~  
17           ~~a conflict of interest.~~

18           ~~"(d) No person shall solicit a public official or~~  
19           ~~public employee to use or cause to be used equipment,~~  
20           ~~facilities, time, materials, human labor, or other public~~  
21           ~~property for such person's private benefit or business~~  
22           ~~benefit, which would materially affect his or her financial~~  
23           ~~interest, except as otherwise provided by law. A public~~  
24           ~~servant shall not solicit or accept any money in addition to~~  
25           ~~the salary received by the public servant in an official~~  
26           ~~capacity for lobbying or otherwise providing advice or~~  
27           ~~assistance on matters concerning the Legislature, a~~

1 legislative body, an executive department, or any public  
2 regulatory board, commission, or other body of which he or she  
3 is a member. Notwithstanding the foregoing, nothing in this  
4 subsection shall be construed to prohibit a public servant  
5 from the performance of his or her official duties or  
6 responsibilities.

7 ~~"(e) No public official or public employee shall,~~  
8 ~~other than in the ordinary course of business, solicit a thing~~  
9 ~~of value from a subordinate or person or business with whom he~~  
10 ~~or she directly inspects, regulates, or supervises in his or~~  
11 ~~her official capacity.~~

12 ~~"(f) A conflict of interest shall exist when a~~  
13 ~~member of a legislative body, public official, or public~~  
14 ~~employee has a substantial financial interest by reason of~~  
15 ~~ownership of, control of, or the exercise of power over any~~  
16 ~~interest greater than five percent of the value of any~~  
17 ~~corporation, company, association, or firm, partnership,~~  
18 ~~proprietorship, or any other business entity of any kind or~~  
19 ~~character which is uniquely affected by proposed or pending~~  
20 ~~legislation; or who is an officer or director for any such~~  
21 ~~corporation, company, association, or firm, partnership,~~  
22 ~~proprietorship, or any other business entity of any kind or~~  
23 ~~character which is uniquely affected by proposed or pending~~  
24 ~~legislation."~~

25 Section 19. Sections 36-25-31 and 36-25-32 are added  
26 to the Code of Alabama 1975, to read:

27 §36-25-31.

1 (a) A public servant shall not use or cause to be  
2 used equipment, facilities, time, materials, human labor, or  
3 other public property under his or her discretion or control  
4 for the private benefit or business benefit of the public  
5 servant, any other person, or principal campaign committee as  
6 defined in Section 17-5-2, which would materially affect the  
7 public servant's financial interest, except as otherwise  
8 provided by law or as provided pursuant to a lawful employment  
9 agreement regulated by agency policy. Nothing in this  
10 subsection shall be deemed to limit or otherwise prohibit  
11 communication between public servants and eleemosynary or  
12 membership organizations or such organizations communicating  
13 with public servants.

14 (b) No person shall solicit a public servant to use  
15 or cause to be used equipment, facilities, time, materials,  
16 human labor, or other public property for such person's  
17 private benefit or business benefit, which would materially  
18 affect his or her financial interest, except as otherwise  
19 provided by law.

20 §36-25-32.

21 A public servant shall not use or disclose nonpublic  
22 information in any way that could result in financial gain,  
23 other than his or her regular salary as a public servant, for  
24 himself or herself or any other person or business.

25 Section 20. Section 36-25-6, Code of Alabama 1975,  
26 is amended and renumbered to read:

27 "~~§36-25-6.~~ §36-25-33.

1 "Contributions to an office holder, a candidate, or  
2 to a public official's inaugural or transitional fund shall  
3 not be converted to personal use."

4 Section 21. An article heading is added following  
5 Section 36-25-33 of the Code of Alabama 1975, to read:

6 "ARTICLE 5. GIFTS, MEALS, TRAVEL EXPENSES, ETC."

7 Section 22. Section 36-25-40 is added to the Code of  
8 Alabama 1975, to read:

9 §36-25-40.

10 For purposes of this article, a thing of value which  
11 is offered, solicited, or accepted indirectly includes any  
12 thing of value that is either of the following:

13 (1) Given with the public servant's knowledge and  
14 acquiescence to a family member of the public servant because  
15 of the family member's relationship to the public servant.

16 (2) Given to any other person on the basis of  
17 designation, recommendation, or other specification by the  
18 public servant, except for the disposition of perishable items  
19 or for payment made to charitable organizations in lieu of  
20 honoraria.

21 Section 23. Section 36-25-7, Code of Alabama 1975,  
22 is amended and renumbered to read:

23 "~~§36-25-7.~~ §36-25-41.

24 "~~(a) No person shall offer or give to a public~~  
25 ~~official or public employee or a member of the household of a~~  
26 ~~public employee or a member of the household of the public~~  
27 ~~official and none of the aforementioned shall solicit or~~



1 ~~receive a thing of value for the purpose of influencing~~  
2 ~~official action. A public servant, directly or indirectly,~~  
3 ~~shall not solicit or accept a thing of value for any person,~~  
4 ~~including himself or herself, for the purpose of influencing~~  
5 ~~official action, nor shall any person, directly or indirectly,~~  
6 ~~offer or give to any public servant a thing of value for the~~  
7 ~~purpose of influencing official action.~~

8           ~~"(b) No public official or public employee shall~~  
9 ~~solicit or receive a thing of value for himself or herself or~~  
10 ~~for a family member of the public employee or family member of~~  
11 ~~the public official for the purpose of influencing official~~  
12 ~~action. Except as provided in Section 36-25-42, a public~~  
13 ~~servant shall not, directly or indirectly, solicit or accept a~~  
14 ~~thing of value from a prohibited source or given because of~~  
15 ~~the public servant's official position. A thing of value is~~  
16 ~~given because of the public servant's official position if it~~  
17 ~~would not have been solicited or given had the public servant~~  
18 ~~not held the status, authority, or duties associated with his~~  
19 ~~or her official position.~~

20           ~~"(c) No person shall offer or give a family member~~  
21 ~~of the public official or family member of the public employee~~  
22 ~~a thing of value for the purpose of influencing official~~  
23 ~~action.~~

24           ~~"(d) No public official or public employee, shall~~  
25 ~~solicit or receive any money in addition to that received by~~  
26 ~~the public official or public employee in an official capacity~~  
27 ~~for advice or assistance on matters concerning the~~

1 ~~Legislature, lobbying a legislative body, an executive~~  
2 ~~department or any public regulatory board, commission or other~~  
3 ~~body of which he or she is a member. Notwithstanding the~~  
4 ~~foregoing, nothing in this section shall be construed to~~  
5 ~~prohibit a public official or public employee from the~~  
6 ~~performance of his or her official duties or~~  
7 ~~responsibilities."~~

8 Section 24. Sections 36-25-42 and 36-25-43 are added  
9 to the Code of Alabama 1975, to read:

10 §36-25-42.

11 Notwithstanding the prohibitions of paragraph (b) of  
12 Section 36-25-41, a public servant may accept any of the  
13 following:

14 (a) Seasonal gifts of an insignificant economic  
15 value of less than fifty dollars (\$50) if the aggregate value  
16 of such gifts from any single source is less than two hundred  
17 fifty dollars (\$250) during any one calendar year.

18 (b) Anything given by a relative, regardless of  
19 value, under circumstances which make it clear that the gift  
20 is motivated by a family relationship.

21 (c) Anything given by a friend, regardless of value,  
22 under circumstances which make it clear that the gift is  
23 motivated by a personal friendship, unless the friend is a  
24 prohibited source.

25 (d) Opportunities and benefits, including favorable  
26 rates and commercial discounts, if the same opportunities and

1 benefits are offered on the same terms to any of the  
2 following:

3 (1) Members of a group or class in which membership  
4 is unrelated to government employment or office.

5 (2) Members of an organization, such as an  
6 employees' association or agency credit union, in which  
7 membership is related to government employment, if the same  
8 offer is broadly available to large segments of the public.

9 (3) Members of any group or class that is not  
10 defined in a manner that specifically discriminates among  
11 public servants on the basis of rank or type of official  
12 responsibility.

13 (e) Reduced membership or other fees for  
14 participation in organization activities offered to all  
15 government employees by professional organizations if the only  
16 restrictions on membership relate to professional  
17 qualifications.

18 (f) Payment of or reimbursement for actual and  
19 necessary transportation and lodging expenses in connection  
20 with any of the following:

21 (1) An activity or event within the continental  
22 United States or Alaska with a primary purpose that is  
23 educational or informational in nature and which is  
24 substantially related to the public servant's official duties  
25 or in the interest of the public servant's agency, provided  
26 that any associated hospitality or entertainment is limited to

1 less than 50 percent of the time spent at the activity or  
2 event.

3 (2) Participation in an official economic  
4 development research or trade mission sponsored or organized  
5 by a state, county, or municipal government entity.

6 (3) Attendance at a mission or meeting in which the  
7 public servant is scheduled to meaningfully participate in his  
8 or her official capacity or regarding matters substantially  
9 related to his or her official duties, and for which  
10 attendance no reimbursement is made by the public servant's  
11 agency; provided that any associated hospitality or  
12 entertainment is limited to less than 25 percent of the time  
13 spent in connection with the event.

14 (g) Meals or other food and beverages where the  
15 provider is present; provided, however, that whenever the  
16 provider is a prohibited source, the total value of the food  
17 and beverages accepted by the public servant and members of  
18 his or her household may not exceed fifty dollars (\$50) per  
19 occasion from all sources or an aggregate value of two hundred  
20 fifty dollars (\$250) from any one source during a calendar  
21 year. A prohibited source may not pay for food and beverages  
22 indirectly in order to assist a public servant in  
23 circumventing the limitations of this subsection. Nothing  
24 herein shall be construed to relieve a lobbyist, principal, or  
25 other person of the duty to make reports of all expenditures  
26 pursuant to Section 36-25-71.

1 (h) With regard to a cultural or sporting event,  
2 tickets or admission and, where the provider is present,  
3 hospitality in the form of food and beverages, subject to the  
4 limitations of paragraph (g); provided that the event does not  
5 extend beyond one day.

6 (i) With regard to active participation in political  
7 management or in a political campaign, meals, lodging,  
8 transportation, and other benefits, including free attendance  
9 at related events, when provided by a political party as  
10 defined in Section 17-13-40, or a principal campaign committee  
11 as defined in Section 17-5-2.

12 (j) Anything required to be reported under Section  
13 17-5-8 of the Fair Campaign Practices Act.

14 §36-25-43.

15 A public servant shall not, other than in the  
16 ordinary course of business, solicit a thing of value from a  
17 subordinate or person or business that the public servant  
18 directly inspects, regulates, or supervises in his or her  
19 official capacity.

20 Section 25. Section 36-25-8, Code of Alabama 1975,  
21 is repealed.

22 Section 26. An article heading is added preceding  
23 Section 36-25-9 of the Code of Alabama 1975, to read:

24 "ARTICLE 6. CONFLICTING FINANCIAL INTERESTS"

25 Section 27. Section 36-25-9 of the Code of Alabama  
26 1975, is amended and renumbered to read:

27 "~~§36-25-9.~~ §36-25-50.

1           "(a) Unless expressly provided otherwise by law, ~~no~~  
2 ~~person~~ public servant shall not serve as a member or employee  
3 of a state, county, or municipal regulatory board or  
4 commission or other body that regulates any business with  
5 which ~~he~~ the person is associated. Nothing herein shall  
6 prohibit real estate brokers, agents, developers, appraisers,  
7 mortgage bankers, or other persons in the real estate field,  
8 or other state-licensed professionals, from serving on any  
9 planning boards or commissions, housing authorities, zoning  
10 board, board of adjustment, code enforcement board, industrial  
11 board, utilities board, state board, or commission.

12           "(b) All county or municipal regulatory boards,  
13 authorities, or commissions currently comprised of any real  
14 estate brokers, agents, developers, appraisers, mortgage  
15 bankers, or other persons in the real estate industry may  
16 allow these individuals to continue to serve out their current  
17 term if appointed before December 31, 1991, except that at the  
18 conclusion of such term subsequent appointments shall reflect  
19 that membership of real estate brokers and agents shall not  
20 exceed more than one less of a majority of any county or  
21 municipal regulatory board or commission effective January 1,  
22 1994.

23           "(c) ~~No~~ A member of any county or municipal agency,  
24 board, or commission shall not vote or participate in any  
25 matter in which the member or family member of the member has  
26 any financial gain or interest.

1           "(d) All acts, actions, and votes taken by such  
2 local boards and commissions between January 1, 1991 and  
3 December 31, 1993 are affirmed and ratified."

4           Section 28. Section 36-25-10, Code of Alabama 1975,  
5 is amended and renumbered to read:

6           "~~§36-25-10.~~ §36-25-51.

7           "~~If a public official or public employee~~ servant, or  
8 a family member of the public ~~employee or family member of the~~  
9 ~~public official~~ servant, or a business with which the person  
10 is associated, represents a client or constituent for a fee  
11 before any quasi-judicial board or commission, regulatory  
12 body, or executive department or agency, notice of the  
13 representation shall be given within 10 days after the first  
14 day of the appearance. Notice shall be filed with the  
15 commission in the manner prescribed by it. No member of the  
16 Legislature shall for a fee, reward, or other compensation  
17 represent any person, firm, or corporation before the Public  
18 Service Commission or the State Board of Adjustment."

19           Section 29. Section 36-25-16, Code of Alabama 1975,  
20 is amended and renumbered to read:

21           "~~§36-25-16.~~ §36-25-52.

22           "(a) When any citizen of the state or business with  
23 which he or she is associated represents for a fee any person  
24 before a regulatory body of the Executive Branch, he or she  
25 shall report to the commission the name of any adult child,  
26 parent, spouse, brother, or sister who is a public official or

1 a public employee of that regulatory body of the Executive  
2 Branch.

3 "(b) When any citizen of the state or business with  
4 which the person is associated enters into a contract for the  
5 sale of goods or services to the State of Alabama or any of  
6 its agencies or any county or municipality and any of their  
7 respective agencies in amounts exceeding seven thousand five  
8 hundred dollars (\$7,500), he or she shall report to the  
9 commission the names of any adult child, parent, spouse,  
10 brother, or sister who is a public official or public employee  
11 of the agency or department with whom the contract is made.

12 "(c) This section shall not apply to any contract  
13 for the sale of goods or services awarded through a process of  
14 public notice and competitive bidding.

15 "(d) Each regulatory body of the Executive Branch,  
16 or any agency of the State of Alabama shall be responsible for  
17 notifying citizens affected by this chapter of the  
18 requirements of this section."

19 Section 30. Section 36-25-11, Code of Alabama 1975,  
20 is amended and renumbered to read:

21 "~~§36-25-11.~~ §36-25-53.

22 "Unless exempt pursuant to Alabama competitive bid  
23 laws or otherwise permitted by law, no public ~~official or~~  
24 ~~public employee~~ servant, or a member of the household of the  
25 public ~~employee or the public official~~ servant, and no  
26 business with which the person is associated shall enter into  
27 any contract to provide goods or services which is to be paid



1 in whole or in part out of state, county, or municipal funds  
2 unless the contract has been awarded through a process of  
3 competitive bidding and a copy of the contract is filed with  
4 the commission. All such contract awards shall be made as a  
5 result of original bid takings, and no awards from  
6 negotiations after bidding shall be allowed. A copy of each  
7 contract, regardless of the amount, entered into by a public  
8 ~~official, public employee~~ servant, a member of the household  
9 of the public ~~employee or the public official~~ servant, and any  
10 business with which the person is associated shall be filed  
11 with the commission within 10 days after the contract has been  
12 entered into whether or not the contract was required to be  
13 competitively bid."

14 Section 31. Section 36-25-13, Code of Alabama 1975,  
15 is amended and renumbered to read:

16 "~~§36-25-13.~~ §36-25-54.

17 "(a) ~~No~~ A former public ~~official~~ servant shall not  
18 serve for a fee as a lobbyist or otherwise represent clients,  
19 including his or her employer before the board, agency,  
20 commission, department, or legislative body, of which he or  
21 she is a former member, official, or employee for a period of  
22 two years after ~~he or she leaves such membership~~ leaving the  
23 position. For the purposes of this subsection, ~~such~~ this  
24 prohibition shall not ~~include~~ apply to a former member of the  
25 Alabama judiciary who as an attorney represents a client in a  
26 legal, non-lobbying capacity.

1           "~~(b) No public employee shall serve for a fee as a~~  
2 lobbyist or otherwise represent clients, including his or her  
3 employer before the board, agency, commission, or department,  
4 of which he or she is a former employee for a period of two  
5 years after he or she leaves such employment. For the purposes  
6 of this subsection, such prohibition shall not include a  
7 former employee of the Alabama judiciary who as an attorney  
8 represents a client in a legal, non-lobbying capacity.

9           "~~(c) (b) No~~ A former public official, director,  
10 assistant director, department or division chief, purchasing  
11 agent or procurement agent having had the authority to make  
12 purchases, on behalf of his or her governmental agency, and  
13 any person who ~~participates~~ participated in the negotiation or  
14 approval of contracts, grants, or awards ~~or any person who~~  
15 ~~negotiates or approves contracts, grants, or awards shall~~ on  
16 behalf of his or her governmental agency, shall not enter  
17 into, solicit, or negotiate a contract, grant, or award with  
18 the governmental agency of which the person was a member,  
19 official, or employee for a period of two years after ~~he or~~  
20 ~~she leaves~~ leaving the ~~membership or employment of such~~  
21 position with the governmental agency.

22           "~~(d) (c) No public official or public employee~~ A  
23 former public servant who personally ~~participates~~ participated  
24 in the direct regulation, audit, or investigation of a private  
25 business, corporation, partnership, or individual shall not,  
26 within two years of leaving his or her ~~departure from such~~  
27 ~~employment~~ government position, solicit or accept employment

1 with ~~such~~ the private business, corporation, partnership, or  
2 individual.

3 ~~"(e) (d) No~~ A former public official or public  
4 ~~employee~~ servant of the state acting as an attorney may not,  
5 within two years ~~after termination of office or employment,~~  
6 ~~act as attorney for any person other than himself or herself~~  
7 ~~or the state,~~ of leaving his or her government position,  
8 represent or aid, counsel, advise, consult or assist in  
9 representing ~~any other~~ another person, other than the state in  
10 connection with any judicial proceeding or other matter in  
11 which the state is a party or has a direct and substantial  
12 interest and in which the former public official or public  
13 ~~employee~~ servant participated personally and substantially as  
14 a public official or ~~employee~~ servant or which was within or  
15 under the public official or ~~public employee's~~ servant's  
16 official responsibility as an official or employee. This  
17 prohibition shall extend to all judicial proceedings or other  
18 matters in which the state is a party or has a direct and  
19 substantial interest, whether arising during or subsequent to  
20 the public official or ~~public employee's~~ servant's term of  
21 office or employment.

22 ~~"(f) Nothing in this chapter shall be deemed to~~  
23 ~~limit the right of a public official or public employee to~~  
24 ~~publicly or privately express his or her support for or to~~  
25 ~~encourage others to support and contribute to any candidate,~~  
26 ~~political committee as defined in Section 17-22A-2,~~

1 ~~referendum, ballot question, issue, or constitutional~~  
2 ~~amendment."~~

3 Section 32. An article heading is added preceding  
4 Section 36-25-14, Code of Alabama 1975, to read:

5 "ARTICLE 7. FINANCIAL DISCLOSURES"

6 Section 33. Section 36-25-14, Code of Alabama 1975,  
7 is amended and renumbered to read:

8 ~~"§36-25-14. §36-25-60.~~

9 "(a) A statement of economic interests shall be  
10 completed and filed in accordance with this chapter with the  
11 commission no later than April 30 of each year covering the  
12 period of the preceding calendar year by each of the  
13 following:

14 "(1) All elected public officials at the state,  
15 county, or municipal level of government or their  
16 instrumentalities.

17 "(2) Any person appointed as a public official and  
18 any person employed as a public employee at the state, county,  
19 or municipal level of government or their instrumentalities  
20 who occupies a position whose base pay is fifty thousand  
21 dollars (\$50,000) or more annually.

22 "(3) All candidates, simultaneously with the date he  
23 or she becomes a candidate as defined in Section ~~17-22A-2~~  
24 17-5-2, or the date the candidate files his or her qualifying  
25 papers, whichever comes first.

26 "(4) Members of the Alabama Ethics Commission;  
27 appointed members of boards and commissions having statewide

1 jurisdiction (but excluding members of solely advisory  
2 boards).

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

6 "(6) Chief clerks and chief managers.

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

8 "(8) Chief administrators.

9 "(9) Chief county administrators.

10 "(10) Any public ~~official or public employee~~ servant  
11 whose primary duty is to invest public funds.

12 "(11) Chief administrative officers of any political  
13 subdivision.

14 "(12) Chief and assistant county building  
15 inspectors.

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

18 "(14) Chief municipal clerks.

19 "(15) Chiefs of police.

20 "(16) Fire chiefs.

21 "(17) City and county school superintendents and  
22 school board members.

23 "(18) City and county school principals or  
24 administrators.

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

1           "(20) Directors and assistant directors of state  
2 agencies.

3           "(21) Chief financial and accounting directors.

4           "(22) Chief grant coordinators.

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

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

13           "(b) Unless otherwise required by law, no public  
14 employee occupying a position earning less than fifty thousand  
15 dollars (\$50,000) per year shall be required to file a  
16 statement of economic interests. Notwithstanding the  
17 provisions of subsection (a) or any other provision of this  
18 chapter, no coach of an athletic team of any four-year  
19 institution of higher education which receives state funds  
20 shall be required to include any income, donations, gifts, or  
21 benefits, other than salary, on the statement of economic  
22 interests, if the income, donations, gifts, or benefits are a  
23 condition of the employment contract. Such statement shall be  
24 made on a form made available by the commission. The duty to  
25 file the statement of economic interests shall rest with the  
26 person covered by this chapter. Nothing in this chapter shall  
27 be construed to exclude any public ~~employee or public official~~

1 servant from this chapter regardless of whether they are  
2 required to file a statement of economic interests. The  
3 statement shall contain the following information on the  
4 person making the filing:

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

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

16 "(3) A listing of total combined household income of  
17 the public ~~official or public employee~~ servant during the most  
18 recent reporting year as to income from salaries, fees,  
19 dividends, profits, commissions, and other compensation and  
20 listing the names of each business, including government  
21 departments, agencies, boards, commissions, and institutions,  
22 and the income derived from such business in the following  
23 categorical amounts: less than one thousand dollars (\$1,000);  
24 at least one thousand dollars (\$1,000) and less than ten  
25 thousand dollars (\$10,000); at least ten thousand dollars  
26 (\$10,000) and less than fifty thousand dollars (\$50,000); at  
27 least fifty thousand dollars (\$50,000) and less than one

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

13 "(4) If the filing public ~~official or public~~  
14 ~~employee~~ servant, or his or her spouse, has engaged in a  
15 business during the last reporting year which provides legal,  
16 accounting, medical or health related, real estate, banking,  
17 insurance, educational, farming, engineering, architectural  
18 management, or other professional services or consultations,  
19 then the filing party shall report the number and names of any  
20 clients of such business which are government departments,  
21 agencies, boards, commissions, or institutions, and the number  
22 of other clients of such business in each of the following  
23 categories, and the income in categorical amounts received  
24 during the reporting period from the combined number of  
25 clients in each category: ~~Electric~~ Government  
26 instrumentalities, electric utilities, gas utilities,  
27 telephone utilities, water utilities, cable television



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

26 "(5) A listing of any persons, businesses, nonprofit  
27 organizations, and other entities other than government

1 instrumentalities the public servant knows or reasonably  
2 should know received public funds, including grants or  
3 contracts, during the last reporting year and which employed  
4 the filing public servant or a family member of the public  
5 servant or to which the public servant, or his or her spouse,  
6 or a business with which the person is or was associated,  
7 provided services under a personal or professional services  
8 contract during the last reporting year.

9           "~~(5)~~ (6) If retainers are in existence or contracted  
10 for in any of the above categories of clients, a listing of  
11 the categories along with the anticipated income to be  
12 expected annually from each category of clients shall be shown  
13 in the following categorical amounts: less than one thousand  
14 dollars (\$1,000); at least one thousand dollars (\$1,000) and  
15 less than five thousand dollars (\$5,000); ~~or~~ and at least five  
16 thousand dollars (\$5,000) or more.

17           "~~(6)~~ (7) If real estate is held for investment or  
18 revenue production by a public official, his or her spouse or  
19 dependents, then a listing thereof in the following fair  
20 market value categorical amounts: Under fifty thousand dollars  
21 (\$50,000); at least fifty thousand dollars (\$50,000) and less  
22 than one hundred thousand dollars (\$100,000); at least one  
23 hundred thousand dollars (\$100,000) and less than one hundred  
24 fifty thousand dollars (\$150,000); at least one hundred fifty  
25 thousand dollars (\$150,000) and less than two hundred fifty  
26 thousand dollars (\$250,000); at least two hundred fifty  
27 thousand dollars (\$250,000) or more. A listing of annual gross

1 rent and lease income on real estate shall be made in the  
2 following categorical amounts: Less than ten thousand dollars  
3 (\$10,000); at least ten thousand dollars (\$10,000) and less  
4 than fifty thousand dollars (\$50,000); fifty thousand dollars  
5 (\$50,000) or more. If a public official or a business in which  
6 the person is associated received rent or lease income from  
7 any governmental agency in Alabama, specific details of the  
8 lease or rent agreement shall be filed with the commission.

9 ~~"(7)~~ (8) A listing of indebtedness to businesses  
10 operating in Alabama showing types and number of each as  
11 follows: Banks, savings and loan associations, insurance  
12 companies, mortgage firms, stockbrokers and brokerages or bond  
13 firms; and the indebtedness to combined organizations in the  
14 following categorical amounts: Less than twenty-five thousand  
15 dollars (\$25,000); twenty-five thousand dollars (\$25,000) and  
16 less than fifty thousand dollars (\$50,000); fifty thousand  
17 dollars (\$50,000) and less than one hundred thousand dollars  
18 (\$100,000); one hundred thousand dollars (\$100,000) and less  
19 than one hundred fifty thousand dollars (\$150,000); one  
20 hundred fifty thousand dollars (\$150,000) and less than two  
21 hundred fifty thousand dollars (\$250,000); two hundred fifty  
22 thousand dollars (\$250,000) or more. The commission may add  
23 additional business to this listing. Indebtedness associated  
24 with the homestead of the person filing is exempted from this  
25 disclosure requirement.

1           "(c) Filing required by this section shall reflect  
2 information and facts in existence at the end of the reporting  
3 year.

4           "(d) If the information required herein is not filed  
5 as required, the commission shall notify the public ~~official~~  
6 ~~or public employee~~ servant concerned as to his or her failure  
7 to so file and the public ~~official or public employee~~ servant  
8 shall have 10 days to file the report after receipt of the  
9 notification. The commission may, in its discretion, assess a  
10 fine of ten dollars (\$10) a day, not to exceed one thousand  
11 dollars (\$1,000), for failure to file timely.

12           "(e) A person who intentionally violates any  
13 financial disclosure filing requirement of this chapter shall  
14 be subject to administrative fines imposed by the commission,  
15 or shall, upon conviction, be guilty of a Class A misdemeanor,  
16 or both.

17           "(f) Any person who unintentionally neglects to  
18 include any information relating to the financial disclosure  
19 filing requirements of this chapter shall have 90 days to file  
20 an amended statement of economic interests without penalty."

21           Section 34. Section 36-25-15, Code of Alabama 1975,  
22 is amended and renumbered to read:

23           "~~§36-25-15.~~ §36-25-61.

24           "(a) Candidates at every level of government shall  
25 file a completed statement of economic interests for the  
26 previous calendar year with the appropriate election official  
27 simultaneously with the date he or she becomes a candidate as

1 defined in Section ~~17-22A-2~~ 17-5-2 or the date such candidate  
2 files his or her qualifying papers with the appropriate  
3 election official, whichever date occurs first. Such election  
4 official shall within five days forward the statement of  
5 economic interests of the candidate to the commission. Nothing  
6 in this section shall be deemed to require a second filing of  
7 the person's statement of economic interests if a current  
8 statement of economic interests is on file with the  
9 commission.

10 "(b) Each election official who receives a  
11 declaration of candidacy or petition to appear on the ballot  
12 for election from a candidate and each official who nominates  
13 a person to serve as a public official shall, within five days  
14 of the receipt or nomination, notify the commission of the  
15 name of the candidate, as defined in this chapter, and the  
16 date on which the person became a candidate or was nominated  
17 as a public official.

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

1           Section 35. An article heading is added preceding  
2 Section 36-25-18 of the Code of Alabama 1975, to read:

3           "ARTICLE 8. LOBBYISTS, PRINCIPALS, AND OTHERS  
4 INTERESTED IN GOVERNMENT ACTION"

5           Section 36. Section 36-25-18 of the Code of Alabama  
6 1975, is amended and renumbered to read:

7           ~~"§36-25-18. §36-25-70.~~

8           "(a) Every lobbyist shall register by filing a form  
9 prescribed by the commission no later than January 31 of each  
10 year or within 10 days after the first undertaking requiring  
11 such registration. Each lobbyist, except public employees who  
12 are lobbyists, shall pay an annual fee of one hundred dollars  
13 (\$100) on or before January 31 of each year or within 10 days  
14 of the first undertaking requiring such registration.

15           "(b) The registration shall be in writing and shall  
16 contain the following information:

17           "(1) The registrant's full name and business  
18 address.

19           "(2) The registrant's normal business and address.

20           "(3) The full name and address of the registrant's  
21 principal or principals.

22           "(4) The listing of the categories of subject  
23 matters on which the registrant is to communicate directly  
24 with a member of the legislative body to influence legislation  
25 or legislative action.

26           "(5) If a registrant's activity is done on behalf of  
27 the members of a group other than a corporation, a categorical

1 disclosure of the number of persons of the group as follows:  
2 1-5; 6-10; 11-25; over 25.

3 "(6) A statement signed by each principal that he or  
4 she has read the registration, knows its contents and has  
5 authorized the registrant to be a lobbyist in his or her  
6 behalf as specified therein, and that no compensation will be  
7 paid to the registrant contingent upon passage or defeat of  
8 any legislative measure.

9 "(c) A registrant shall file a supplemental  
10 registration indicating any substantial change or changes in  
11 the information contained in the prior registration within 10  
12 days after the date of the change."

13 Section 37. Section 36-25-19, Code of Alabama 1975,  
14 is amended and renumbered to read:

15 "~~§36-25-19.~~ §36-25-71.

16 "(a) Every person registered as a lobbyist pursuant  
17 to Section ~~36-25-18~~ 36-25-70 and every principal employing or  
18 contracting for the services of any lobbyist shall file with  
19 the commission a report in a form provided by the commission  
20 pertaining to the activities set out in that section. The  
21 report shall be filed with the commission no later than  
22 January 31, April 30, July 31, and October 31 for each  
23 preceding calendar quarter, and contain, but not be limited  
24 to, the following information:

25 "~~(1) The cost of those items excluded from the~~  
26 ~~definition of a thing of value which are described in Section~~  
27 ~~36-25-1(32)b. and which are expended within a 24-hour period~~

1 on a public official, public employee, and members of his or  
2 her respective household in excess of two hundred fifty  
3 dollars (\$250) with the name or names of the recipient or  
4 recipients and the date of the expenditure. An itemized list  
5 of each thing of value provided to a public servant and any  
6 member of the household of a public servant, including the  
7 date the thing of value was provided, a description of the  
8 thing of value, its value, the name or names of the recipient  
9 or recipients and, in the case of household members, the name  
10 of the related public servant.

11 "(2) The nature and date of any financial  
12 transaction between the public official, candidate, or member  
13 of the household of such public official or candidate and the  
14 lobbyist or principal ~~of a value in excess of five hundred~~  
15 ~~dollars (\$500)~~ in the prior quarter, excluding those financial  
16 transactions which are required to be reported by candidates  
17 under the Fair Campaign Practices Act as provided in Chapter  
18 ~~22A 5~~ (commencing with Section ~~17-22A-1~~ 17-5-1) of Title 17.

19 "(3) A detailed statement showing the exact amount  
20 of any loan given or promised to ~~a public official, candidate,~~  
21 any public official or servant, family member of a public  
22 servant, candidate, and family member of a candidate.

23 "(4) A detailed statement showing any direct  
24 business association or partnership with any public official,  
25 candidate, or members of the household of such public official  
26 or candidate; provided, however, that campaign expenditures  
27 shall not be deemed a business association or partnership.



1           "(b) Any person not otherwise deemed a lobbyist  
2 pursuant to this chapter who negotiates or attempts to  
3 negotiate a contract, sells or attempts to sell goods or  
4 services, or engages or attempts to engage in a financial  
5 transaction with a public ~~official or public employee~~ servant  
6 in ~~their~~ his or her official capacity and who ~~within a~~  
7 ~~calendar day expends in excess~~ provides any thing of two  
8 hundred fifty dollars (\$250) on such public employee, public  
9 official, and his or her respective household value to the  
10 public servant shall file a detailed quarterly report of the  
11 expenditure with the commission pursuant to this section.

12           "~~(c) Any other provision of this chapter to the~~  
13 ~~contrary notwithstanding, no organization whose officer or~~  
14 ~~employee serves as a public official under this chapter shall~~  
15 ~~be required to report expenditures or reimbursement paid to~~  
16 ~~such officer or employee in the performance of the duties with~~  
17 ~~the organization."~~

18           Section 38. Section 36-25-20, Code of Alabama 1975,  
19 is amended and renumbered to read:

20           "~~§36-25-20.~~ §36-25-72.

21           "(a) A person who ceases to engage in activities  
22 requiring registration pursuant to ~~Section 36-25-18~~ this  
23 article shall file a written, verified statement with the  
24 commission acknowledging the termination of activities. The  
25 notice shall be effective immediately.

26           "(b) A person who files a notice of termination  
27 pursuant to this section shall file the reports required

1 pursuant to ~~Sections 36-25-18 and 36-25-19~~ this section for  
2 any reporting period during which he or she was registered  
3 pursuant to this chapter."

4 Section 39. Section 36-25-21, Code of Alabama 1975,  
5 is amended and renumbered to read:

6 "~~§36-25-21.~~ §36-25-73.

7 "All reports filed pursuant to Sections ~~36-25-18 to~~  
8 ~~36-25-20~~ 36-25-70 to 36-25-72, inclusive, are public records  
9 and shall be made available for public inspection during  
10 regular business hours and online via the Internet in a way  
11 that is searchable and retrievable by the name of the filing  
12 person or business and the name of the public servant or  
13 public servants to which the reports pertain."

14 Section 40. Section 36-25-22, Code of Alabama 1975,  
15 is amended and renumbered to read:

16 "~~§36-25-22.~~ §36-25-74.

17 "Sections ~~36-25-18 to 36-25-21~~ 36-25-70 to 36-25-73,  
18 inclusive, shall not be construed as affecting professional  
19 services in drafting bills or in advising clients and in  
20 rendering opinions as to the construction and effect of  
21 proposed or pending legislation, executive action, rules, or  
22 regulations, where those professional services are not  
23 otherwise connected with legislative, executive, or regulatory  
24 action."

25 Section 41. Section 36-25-23, Code of Alabama 1975,  
26 is amended and renumbered to read:

27 "~~§36-25-23.~~ §36-25-75.

1           "(a) No former member of the House of  
2 Representatives or the Senate of the State of Alabama shall be  
3 extended floor privileges of either body in a lobbying  
4 capacity.

5           "(b) No public ~~official, public employee~~ servant, or  
6 group of public ~~officials or public employees~~ servants, shall  
7 solicit any lobbyist to give any thing whether or not the  
8 thing solicited is a thing of value to any person or entity  
9 for any purpose other than a campaign contribution.

10           "(c) No principal or lobbyist shall accept  
11 compensation for, or enter into a contract to provide lobbying  
12 services which is contingent upon the passage or defeat of any  
13 legislative action."

14           Section 42. Section 36-25-26, Code of Alabama 1975,  
15 is renumbered to read:

16           "~~§36-25-26.~~ §36-25-76.

17           "No person, for the purpose of influencing  
18 legislation, may do either of the following:

19           "(1) Knowingly or willfully make any false statement  
20 or misrepresentation of the facts to a member of the  
21 Legislative or Executive Branch.

22           "(2) Knowing a document to contain a false  
23 statement, cause a copy of the document to be received by a  
24 member of the Legislative or Executive Branch without  
25 notifying the member in writing of the truth."

26           Section 43. An article heading is added preceding  
27 Section 36-25-17, Code of Alabama 1975, to read:

1                   "ARTICLE 9. VIOLATIONS - REPORTING AND PENALTIES"

2                   Section 44. Section 36-25-17, Code of Alabama 1975,  
3 is renumbered to read:

4                   "~~§36-25-17.~~ §36-25-80.

5                   "(a) Every governmental agency head shall within 10  
6 days file reports with the commission on any matters that come  
7 to his or her attention in his or her official capacity which  
8 constitute a violation of this chapter.

9                   "(b) Governmental agency heads shall cooperate in  
10 every possible manner in connection with any investigation or  
11 hearing, public or private, which may be conducted by the  
12 commission."

13                   Section 45. Section 36-25-24, Code of Alabama 1975,  
14 is renumbered to read:

15                   "~~§36-25-24.~~ §36-25-81.

16                   "(a) A supervisor shall not discharge, demote,  
17 transfer, or otherwise discriminate against a public employee  
18 regarding such employee's compensation, terms, conditions, or  
19 privileges of employment based on the employee's reporting a  
20 violation, or what he or she believes in good faith to be a  
21 violation, of this chapter or giving truthful statements or  
22 truthful testimony concerning an alleged ethics violation.

23                   "(b) Nothing in this chapter shall be construed in  
24 any manner to prevent or prohibit or otherwise limit a  
25 supervisor from disciplining, discharging, transferring, or  
26 otherwise affecting the terms and conditions of a public  
27 employee's employment so long as the disciplinary action does

1 not result from or is in no other manner connected with the  
2 public employee's filing a complaint with the commission,  
3 giving truthful statements, and truthfully testifying.

4 "(c) No public employee shall file a complaint or  
5 otherwise initiate action against a public official or other  
6 public employee without a good faith basis for believing the  
7 complaint to be true and accurate.

8 "(d) A supervisor who is alleged to have violated  
9 this section shall be subject to civil action in the circuit  
10 courts of this state pursuant to the Alabama Rules of Civil  
11 Procedure as promulgated by the Alabama Supreme Court.

12 "(e) A public employee who without a good faith  
13 belief in the truthfulness and accuracy of a complaint filed  
14 against a supervisor, shall be subject to a civil action in  
15 the circuit courts in the State of Alabama pursuant to the  
16 Alabama Rules of Civil Procedure as promulgated by the Supreme  
17 Court. Additionally, a public employee who without a good  
18 faith belief in the truthfulness and accuracy of a complaint  
19 as filed against a supervisor shall be subject to appropriate  
20 and applicable personnel action.

21 "(f) Nothing in this section shall be construed to  
22 allow a public employee to file a complaint to prevent,  
23 mitigate, lessen, or otherwise to extinguish existing or  
24 anticipated personnel action by a supervisor. A public  
25 employee who willfully files such a complaint against a  
26 supervisor shall, upon conviction, be guilty of the crime of  
27 false reporting."

1                   Section 46. Section 36-25-27, Code of Alabama 1975,  
2 is amended and renumbered to read:

3                   "~~§36-25-27.~~ §36-25-82.

4                   "(a) (1) Except as otherwise provided, any person  
5 subject to this chapter who intentionally violates any  
6 provision of this chapter other than those for which a  
7 separate penalty is provided for in this section shall, upon  
8 conviction, be guilty of a Class B felony.

9                   "(2) Any person subject to this chapter who violates  
10 any provision of this chapter other than those for which a  
11 separate penalty is provided for in this section shall, upon  
12 conviction, be guilty of a Class A misdemeanor.

13                   "(3) Any person subject to this chapter who  
14 knowingly violates any disclosure requirement of this chapter  
15 shall, upon conviction, be guilty of a Class A misdemeanor.

16                   "(4) Any person who knowingly makes or transmits a  
17 false report or complaint pursuant to this chapter shall, upon  
18 conviction, be guilty of a Class A misdemeanor and shall be  
19 liable for the actual legal expenses incurred by the  
20 respondent against whom the false report or complaint was  
21 filed.

22                   "(5) Any person who makes false statements to an  
23 employee of the commission or to the commission itself  
24 pursuant to this chapter without reason to believe the  
25 accuracy of the statements shall, upon conviction, be guilty  
26 of a Class A misdemeanor.

1           "(6) Any person subject to this chapter who  
2 intentionally violates this chapter relating to secrecy shall,  
3 upon conviction, be guilty of a Class A misdemeanor.

4           "(7) Any person subject to this chapter who  
5 intentionally fails to disclose information required by this  
6 chapter shall, upon conviction, be guilty of a Class A  
7 misdemeanor.

8           "(b) The commission if petitioned or agreed to by a  
9 respondent and the Attorney General or district attorney  
10 having jurisdiction, by unanimous vote of the members present  
11 may administratively resolve a complaint filed pursuant to  
12 this chapter for minor violations. The commission may levy an  
13 administrative penalty not to exceed one thousand dollars  
14 (\$1,000) for any minor violation of this chapter including,  
15 but not limited to, the failure to timely file a complete and  
16 correct statement of economic interests. The commission shall,  
17 in addition to any administrative penalty, order restitution  
18 in the amount of any economic loss to the state, county, and  
19 municipal governments and their instrumentalities and such  
20 restitution shall when collected be paid by the commission, to  
21 the entity having the economic loss. In any case in which an  
22 administrative penalty is imposed, the administrative penalty  
23 shall not be less than three times the amount of any economic  
24 loss to the state, county, and municipal governments or their  
25 instrumentalities or any economic gain or benefit to the  
26 public ~~official or public employee~~ servant, or whichever sum  
27 is greater. The commission, through its attorney, shall

1 institute proceedings to recover any penalties or restitution  
2 or other such funds so ordered pursuant to this section which  
3 are not paid by, or on behalf of the public ~~official or public~~  
4 ~~employee~~ servant or other person who has violated this  
5 chapter. Nothing in this section shall be deemed in any manner  
6 to prohibit the commission and the respondent from entering  
7 into a consent decree settling a complaint which has  
8 previously been designated by the commission for  
9 administrative resolution, so long as the consent decree is  
10 approved by the commission. If the commission, the respondent,  
11 and the Attorney General or district attorney having  
12 jurisdiction, all concur that a complaint is deemed to be  
13 handled administratively, the action shall preclude any  
14 criminal prosecution pursuant to this chapter at the state,  
15 county, or municipal level.

16 "(c) The enforcement of this chapter shall be vested  
17 in the commission; provided however, nothing in this chapter  
18 shall be deemed to limit or otherwise prohibit the Attorney  
19 General or the district attorney for the appropriate  
20 jurisdiction from enforcing any provision of this chapter as  
21 they deem appropriate. In the event the commission, by  
22 majority vote, finds that any provision of this chapter has  
23 been violated, the alleged violation and any investigation  
24 conducted by the commission shall be referred to the district  
25 attorney of the appropriate jurisdiction or the Attorney  
26 General. The commission shall provide any and all appropriate  
27 assistance to such district attorney or Attorney General. Upon



1 the request of such district attorney or the Attorney General,  
2 the commission may institute, prosecute, or take such other  
3 appropriate legal action regarding such violations, proceeding  
4 therein with all rights, privileges, and powers conferred by  
5 law upon assistant attorneys general.

6 "(d) Nothing in this chapter limits the power of the  
7 state to punish any person for any conduct which otherwise  
8 constitutes a crime by statute or at common law.

9 "(e) The penalties prescribed in this chapter do not  
10 in any manner limit the power of a legislative body to  
11 discipline its own members or to impeach public officials and  
12 do not limit the powers of agencies, departments, boards, or  
13 commissions to discipline their respective officials, members,  
14 or employees.

15 "(f) Each circuit court of this state shall have  
16 jurisdiction of all cases and actions relative to judicial  
17 review, violations, or the enforcement of this chapter, and  
18 the venue of any action pursuant to this chapter shall be in  
19 the county in which the alleged violation occurred, or in  
20 those cases where the violation or violations occurred outside  
21 the State of Alabama, in Montgomery County. In the case of  
22 judicial review of any administrative decision of the  
23 commission, the commission's order, rule, or decision shall be  
24 taken as prima facie just and reasonable and the court shall  
25 not substitute its judgment for that of the commission as to  
26 the weight of the evidence on questions of fact except where  
27 otherwise authorized by law.

1           "(g) Any felony prosecution brought pursuant to this  
2 chapter shall be commenced within four years after the  
3 commission of the offense.

4           "(h) Any misdemeanor prosecution brought pursuant to  
5 this chapter shall be commenced within two years after the  
6 commission of the offense.

7           "(i) Nothing in this chapter is intended to nor is  
8 to be construed as repealing in any way the provisions of any  
9 of the criminal laws of this state."

10           Section 47. Section 36-25-83 is added to the Code of  
11 Alabama 1975, to read:

12           §36-25-83.

13           All fees, penalties, and fines collected by the  
14 commission pursuant to this chapter shall be deposited into  
15 the State General Fund.

16           Section 48. Section 36-25-28, Code of Alabama 1975,  
17 is repealed.

18           Section 49. This act shall become effective July 1,  
19 2010.