

1 HB594
2 107686-3
3 By Representatives Gipson, Hubbard, McClurkin, Love, Ball,
4 Hill, Drake, Moore (P), Galliher, Morrow, Allen, Laird,
5 Williams, Baker (A), Shiver, Collier, Wood, Ward, Bentley,
6 Mask, Ison, Gaston and Fincher
7 RFD: Judiciary
8 First Read: 24-FEB-09

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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 as follows:

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 amount less than two
11 hundred fifty dollars (\$250) or the governmental entity has an
12 economic loss of less than two hundred fifty dollars (\$250).

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

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

22 "~~(21)~~ (20) PRINCIPAL. A person or business which
23 employs, hires, or otherwise retains a lobbyist. Nothing in
24 this chapter shall be deemed to prohibit a principal from
25 simultaneously serving as his or her own lobbyist.

26 "~~(22)~~ (21) PROBABLE CAUSE. ~~A finding that the~~
27 ~~allegations are more likely than not to have occurred. An~~

1 evidentiary standard that is satisfied when reasonable grounds
2 exist to believe that a violation of this chapter has occurred
3 and that the respondent is the person who committed the
4 violation.

5 "(22) PROHIBITED SOURCE. Any of the following
6 persons:

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

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

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

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

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

1 ~~lobbying, the compensation for which constitutes less than 50~~
2 ~~percent of the part-time employee's income.~~

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

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

15 "~~(25)~~ (26) REGULATORY BODY. A state agency which
16 issues regulations in accordance with the Alabama
17 Administrative Procedure Act or a state, county, or municipal
18 department, agency, board, or commission which controls,
19 according to rule or regulation, the activities, business
20 licensure, or functions of any group, person, or persons.

21 "~~(26)~~ (27) REPORTING PERIOD. The reporting
22 official's or employee's fiscal tax year as it applies to his
23 or her United States personal income tax return.

24 "~~(27)~~ (28) REPORTING YEAR. The reporting official's
25 or employee's fiscal tax year as it applies to his or her
26 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.~~ Fair market value, as
7 measured by the retail cost a private citizen would incur to
8 purchase the thing of value or, if the retail cost cannot be
9 readily ascertained, as reasonably estimated based on the
10 retail cost of similar items of like quality. In the case of a
11 ticket entitling the holder to food and beverages,
12 entertainment, admission to any facility or event, or any
13 other benefit, value means the face value of the ticket."

14 Section 3. Section 36-25-2, Code of Alabama 1975, is
15 amended to read:

16 "§36-25-2.

17 "Legislative findings and declarations; purpose of
18 chapter.

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

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

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

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

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

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

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

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

26 "(c) The Legislature declares that the operation of
27 responsible democratic government requires that the fullest

1 opportunity be afforded to the people to petition their
2 government for the redress of grievances and to express freely
3 to the legislative bodies and to officials of the Executive
4 Branch, their opinions on legislation, on pending governmental
5 actions, and on current issues. To preserve and maintain the
6 integrity of the legislative and administrative processes, it
7 is necessary that the identity, expenditures, and activities
8 of certain persons who engage in efforts to persuade members
9 of the legislative bodies or members of the Executive Branch
10 to take specific actions, either by direct communication to
11 these officials, or by solicitation of others to engage in
12 such efforts, be publicly and regularly disclosed. This
13 chapter shall be liberally construed to promote complete
14 disclosure of all relevant information and to insure that the
15 public interest is fully protected.

16 "(d) It is the policy and purpose of this chapter to
17 implement these objectives of protecting the integrity of all
18 governmental units of this state and of facilitating the
19 service of qualified personnel by prescribing essential
20 restrictions against conflicts of interest and prudent
21 protections against the appearance of conflicts of interest in
22 public service without creating unnecessary barriers thereto."

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

25 "~~§36-25-30.~~ §36-25-3.

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

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

7 "(c) Nothing in this chapter shall be construed as
8 to deprive any citizen of the citizen's constitutional right
9 to communicate with members of the Legislature or other public
10 servants."

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

13 ~~"§36-25-29. §36-25-4.~~

14 ~~"The Legislature shall appropriate such sums as it~~
15 ~~deems necessary to implement the provisions of and administer~~
16 ~~this chapter.~~

17 "For fiscal year 2010-11, there is hereby
18 appropriated two million dollars (\$2,000,000) from the State
19 General Fund to the State Ethics Commission for implementation
20 and administration of this chapter, and continuing every
21 fiscal year thereafter, an amount equal to at least 105
22 percent of the commission's annual appropriation for the prior
23 fiscal year is appropriated from the State General Fund. Any
24 other appropriation for the State Ethics Commission made by
25 the Legislature in any bill shall be deemed to be in addition
26 to the appropriation made by this section unless it is
27 explicitly made in lieu of the appropriation made by this

1 section in a bill other than a general appropriations bill and
2 is approved by a two-thirds vote of the members present and
3 voting in each house."

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

6 §36-25-5.

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

9 (1) A system for electronic filing of complaints and
10 all statements, reports, registrations, and notices required
11 by this chapter.

12 (2) An electronic database accessible to the public
13 through an Internet website which provides at least the
14 following capabilities:

15 a. Search and retrieval of all statements, reports,
16 and other filings required by this chapter, excluding
17 complaints, by the name of the public servant to which they
18 pertain.

19 b. Generation of an aggregate list of all things of
20 value provided to each public servant and family member of a
21 public servant as reported pursuant to Section 36-25-71,
22 searchable and retrievable by the name of the public servant.

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

25 "ARTICLE 2. STATE ETHICS COMMISSION"

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

1 "~~§36-25-3.~~ §36-25-10.

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

15 "(b) No member of the commission shall be eligible
16 for reappointment to succeed himself or herself. The members
17 of the commission shall be appointed by the following
18 officers: the Governor, the Lieutenant Governor, or in the
19 absence of a Lieutenant Governor, the Presiding Officer of the
20 Senate, and the Speaker of the House of Representatives; and
21 shall assume their duties ~~upon confirmation by the Senate~~ ad
22 interim, until confirmation or rejection by the Senate. The
23 members of the first commission shall be appointed for terms
24 of office expiring one, two, three, four and five years,
25 respectively, from September 1, 1975. Successors to the
26 members of the first commission shall serve for a term of five
27 years beginning service on September 1 of the year appointed

1 and serving until their successors are appointed and
2 confirmed. ~~If at any time there should be a vacancy on the~~
3 ~~commission, a successor member to serve for the unexpired term~~
4 ~~applicable to such vacancy shall be appointed by the Governor.~~
5 ~~The commission shall elect one member to serve as chair of the~~
6 ~~commission and one member to serve as vice chair. The vice~~
7 ~~chair shall act as chair in the absence or disability of the~~
8 ~~chair or in the event of a vacancy in that office. If the~~
9 ~~Senate fails to vote on an appointee's confirmation before~~
10 ~~adjourning sine die, the appointee is deemed to be confirmed.~~
11 ~~No appointee whose confirmation is rejected by the Senate may~~
12 ~~be reappointed.~~

13 "Beginning with the first vacancy on the Ethics
14 Commission after October 1, 1995, if there is not a Black
15 member serving on the commission, that vacancy shall be filled
16 by a Black appointee. Any vacancy thereafter occurring on the
17 commission, shall also be filled by a Black appointee if there
18 is no Black member serving on the commission at that time.

19 "~~(b) A vacancy in the commission shall not impair~~
20 ~~the right of the remaining members to exercise all the powers~~
21 ~~of the commission, and three members thereof shall constitute~~
22 ~~a quorum.~~

23 "~~(c) The commission shall at the close of each~~
24 ~~fiscal year, or as soon thereafter as practicable, report to~~
25 ~~the Legislature and the Governor concerning the actions it has~~
26 ~~taken, the name, salary, and duties of the director, the names~~
27 ~~and duties of all individuals in its employ, the money it has~~

1 ~~disbursed, other relevant matters within its jurisdiction, and~~
2 ~~such recommendations for legislation as the commission deems~~
3 ~~appropriate.~~

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

17 ~~"(c) If at any time there should be a vacancy on the~~
18 ~~commission, a successor member to serve for the unexpired term~~
19 ~~applicable to such vacancy shall be appointed by the Governor~~
20 ~~and shall continue to serve until a successor is appointed as~~
21 ~~provided by this section. A vacancy in the commission shall~~
22 ~~not impair the right of the remaining members to exercise all~~
23 ~~the powers of the commission, and three members thereof shall~~
24 ~~constitute a quorum.~~

25 ~~"(e) All members, officers, agents, attorneys, and~~
26 ~~employees of the commission shall be subject to this chapter.~~
27 ~~The director, members of the commission, and all employees of~~

1 ~~the commission shall not engage in direct partisan political~~
2 ~~activity, including the making of campaign contributions, on~~
3 ~~the state, county, and local levels. The prohibition shall in~~
4 ~~no way act to limit or restrict such persons' ability to vote~~
5 ~~in any election.~~

6 "(d) The commission shall elect one member to serve
7 as chair of the commission and one member to serve as vice
8 chair. The vice chair shall act as chair in the absence or
9 disability of the chair or in the event of a vacancy in that
10 office.

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

26 ~~"(g) The director may appoint part-time stenographic~~
27 ~~reporters or certified court reporters, as needed, to take and~~

1 ~~transcribe the testimony in any formal or informal hearing or~~
2 ~~investigation before the commission or before any person~~
3 ~~authorized by the commission. The reporters shall not be~~
4 ~~full-time employees of the commission and shall not be subject~~
5 ~~to the Merit System law and may not participate in the State~~
6 ~~Retirement System.~~

7 ~~"(h) The director may, with the approval of the~~
8 ~~Attorney General, appoint a competent attorney as legal~~
9 ~~counsel for the commission. The legal counsel shall be of good~~
10 ~~moral and ethical character, licensed to practice law in this~~
11 ~~state, and a member in good standing of the Alabama Bar~~
12 ~~Association. The legal counsel shall be commissioned as an~~
13 ~~assistant or deputy attorney general and shall, in addition to~~
14 ~~the powers and duties herein conferred, have the authority and~~
15 ~~duties of an assistant or deputy attorney general, except,~~
16 ~~that his or her entire time shall be devoted to the~~
17 ~~commission. The attorney shall act as an attorney for the~~
18 ~~commission in actions or proceedings brought by or against the~~
19 ~~commission pursuant to any provisions of law under the~~
20 ~~commission's jurisdiction, or in which the commission joins or~~
21 ~~intervenes as to a matter within the commission's~~
22 ~~jurisdiction, or as a friend of the court or otherwise;~~
23 ~~provided however, nothing in this chapter shall be deemed as a~~
24 ~~direct grant of subpoena power to the commission.~~

25 ~~"(i) The director shall designate in writing the~~
26 ~~chief investigator, should there be one, and a maximum of six~~
27 ~~full-time investigators who shall be and are hereby~~

1 ~~constituted law enforcement officers of the State of Alabama~~
2 ~~with full and unlimited police power and jurisdiction to~~
3 ~~enforce the laws of this state pertaining to the operation and~~
4 ~~administration of the commission and this chapter.~~
5 ~~Investigators shall meet the requirements of the Alabama Peace~~
6 ~~Officers' Standards and Training Act, Sections 36-21-40 to~~
7 ~~36-21-51, inclusive, and shall in all ways and for all~~
8 ~~purposes be considered law enforcement officers, provided~~
9 ~~however such investigators shall only exercise their power of~~
10 ~~arrest as granted under this chapter pursuant to an order~~
11 ~~issued by a court of competent jurisdiction."~~

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

14 §36-25-11.

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

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

3 §36-25-12.

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

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

14 "~~§36-25-4.~~ §36-25-13.

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

16 "(1) Submit an annual report at the close of each
17 fiscal year, or as soon thereafter as practicable, to the
18 Legislature and the Governor concerning the actions it has
19 taken, the name, salary, and duties of the director, the names
20 and duties of all individuals in its employ, the money it has
21 disbursed, other relevant matters within its jurisdiction, and
22 such recommendations for legislation as the commission deems
23 appropriate.

24 "~~(1)~~ (2) Prescribe forms for statements required to
25 be filed by this chapter and make the forms available to
26 persons required to file such statements.

1 "~~(2)~~ (3) Prepare guidelines setting forth
2 recommended uniform methods of reporting for use by persons
3 required to file statements required by this chapter.

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

7 "~~(4)~~ (5) Develop, where practicable, a filing,
8 coding, and cross-indexing system consistent with the purposes
9 of this chapter.

10 "~~(5)~~ (6) Make reports and statements filed with the
11 commission available during regular business hours and online
12 via the Internet to public inquiry subject to such regulations
13 as the commission may prescribe including, but not limited to,
14 regulations requiring identification by name, occupation,
15 address, and telephone number of each person examining
16 information on file with the commission.

17 "~~(6)~~ (7) Preserve reports and statements for a
18 period consistent with the statute of limitations as contained
19 in this chapter. The reports and statements, when no longer
20 required to be retained, shall be disposed of by shredding the
21 reports and statements and disposing of or recycling them, or
22 otherwise disposing of the reports and statements in any other
23 manner prescribed by law. Nothing in this section shall in any
24 manner limit the Department of Archives and History from
25 receiving and retaining any documents pursuant to existing
26 law.

1 "~~(7)~~ (8) Make investigations with respect to
2 statements filed pursuant to this chapter, and with respect to
3 alleged failures to file, or omissions contained therein, any
4 statement required pursuant to this chapter and, upon
5 complaint by any individual, with respect to alleged violation
6 of any part of this chapter to the extent authorized by law.
7 ~~when~~ When in its opinion a thorough audit of any person or any
8 business should be made in order to determine whether this
9 chapter has been violated, the commission shall direct the
10 Examiner of Public Accounts to have an audit made and a report
11 thereof filed with the commission. The Examiner of Public
12 Accounts shall, upon receipt of the directive, comply
13 therewith.

14 "~~(8)~~ (9) Report suspected violations of law to the
15 appropriate law-enforcement authorities.

16 "~~(9)~~ ~~Issue and publish advisory opinions on the~~
17 ~~requirements of this chapter, based on a real or hypothetical~~
18 ~~set of circumstances. Such advisory opinions shall be adopted~~
19 ~~by a majority vote of the members of the commission present~~
20 ~~and shall be effective and deemed valid until expressly~~
21 ~~overruled or altered by the commission or a court of competent~~
22 ~~jurisdiction. The written advisory opinions of the commission~~
23 ~~shall protect the person at whose request the opinion was~~
24 ~~issued and any other person reasonably relying, in good faith,~~
25 ~~on the advisory opinion in a materially like circumstance from~~
26 ~~liability to the state, a county, or a municipal subdivision~~
27 ~~of the state because of any action performed or action~~

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

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

17 "(11) In accordance with Sections 41-22-1 to
18 41-22-27, inclusive, the Alabama Administrative Procedure Act,
19 prescribe, publish, and enforce rules ~~and regulations~~ to carry
20 out this chapter.

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

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

6 ~~"(c) The commission shall not take any investigatory~~
7 ~~action on a telephonic or written complaint against a~~
8 ~~respondent so long as the complainant remains anonymous.~~
9 ~~Investigatory action on a complaint from an identifiable~~
10 ~~source shall not be initiated until the true identity of the~~
11 ~~source has been ascertained and written verification of such~~
12 ~~ascertainment is in the commission's files. The complaint may~~
13 ~~only be filed by a person who has or persons who have actual~~
14 ~~knowledge of the allegations contained in the complaint. A~~
15 ~~complainant may not file a complaint for another person or~~
16 ~~persons in order to circumvent this subsection. Prior to~~
17 ~~commencing any investigation, the commission shall: (1)~~
18 ~~receive a written and signed complaint which sets forth in~~
19 ~~detail the specific charges against a respondent, and the~~
20 ~~factual allegations which support such charges and (2) the~~
21 ~~director shall conduct a preliminary inquiry in order to make~~
22 ~~an initial determination that reasonable cause exists to~~
23 ~~conduct an investigation. If the director determines~~
24 ~~reasonable cause does not exist, the charges shall be~~
25 ~~dismissed, but such action must be reported to the commission.~~
26 ~~The commission shall be entitled to authorize an investigation~~
27 ~~upon a unanimous written consent of all five (5) commission~~

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

18 "(d) Not less than 45 days prior to any hearing
19 before the commission, the respondent shall be given notice
20 that a complaint has been filed against him or her and shall
21 be given a summary of the charges contained therein. Upon the
22 timely request of the respondent, a continuance of the hearing
23 for not less than 30 days shall be granted for good cause
24 shown. The respondent charged in the complaint shall have the
25 right to be represented by retained legal counsel. The
26 commission may not require the respondent to be a witness
27 against himself or herself.

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

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

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

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

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

24 §36-25-14.

25 (a) The commission shall issue and publish advisory
26 opinions on the requirements of this chapter, based on a real
27 or hypothetical set of circumstances. Such advisory opinions

1 shall be adopted by a majority vote of the members of the
2 commission present and shall be effective and deemed valid
3 until expressly overruled or altered by the commission or a
4 court of competent jurisdiction.

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

15 (c) The commission may impose reasonable charges for
16 publication of the advisory opinions and monies shall be
17 collected, deposited, dispensed, or retained as provided
18 herein.

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

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

3 §36-25-15.

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

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

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

17 (d) The director shall designate in writing the
18 chief investigator, should there be one, and a maximum of six
19 full-time investigators who shall be and are hereby
20 constituted law enforcement officers of the State of Alabama
21 with full and unlimited police power and jurisdiction to
22 enforce the laws of this state pertaining to the operation and
23 administration of the commission and this chapter.
24 Investigators shall meet the requirements of the Alabama Peace
25 Officers' Standards and Training Act, Sections 36-21-40 to
26 36-21-51, inclusive, and shall in all ways and for all
27 purposes be considered law enforcement officers; provided,

1 however, such investigators shall only exercise their power of
2 arrest as granted under this chapter pursuant to an order
3 issued by a court of competent jurisdiction.

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

6 §36-25-16.

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

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

14 "ARTICLE 3. COMPLAINTS AND INVESTIGATIONS"

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

18 §36-25-20.

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

1 to a complaint filed with the commission and to all
2 proceedings relating thereto before the commission.

3 §36-25-21.

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

11 §36-25-22.

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

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

21 (2) That the complaint is supported by verifiable
22 information.

23 (3) That reasonable cause exists to conduct an
24 investigation.

25 (b) If the director finds that the complaint fails
26 to satisfy the requirements of subsection (a), the complaint

1 shall be dismissed, but such action must be reported to the
2 commission.

3 §36-25-23.

4 (a) A complaint may be initiated by the unanimous
5 vote of the commission.

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

19 §36-25-24.

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

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

1 for not less than 30 days shall be granted for good cause
2 shown.

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

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

10 §36-25-25.

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

24 (b) If the commission finds cause that a person
25 covered by this chapter has violated it, the case and the
26 commission's findings shall be forwarded to the district
27 attorney for the jurisdiction in which the alleged acts

1 occurred or to the Attorney General. The case, along with the
2 commission's findings, shall be referred for appropriate legal
3 action. Nothing in this section shall be deemed to limit the
4 commission's ability to take appropriate legal action when so
5 requested by the district attorney for the appropriate
6 jurisdiction or by the Attorney General.

7 §36-25-26.

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

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

24 "ARTICLE 4. MISUSE OF OFFICIAL POSITION"

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

27 "~~§36-25-5.~~ §36-25-30.

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

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

22 ~~"(c) No public official or public employee shall use~~
23 ~~or cause to be used equipment, facilities, time, materials,~~
24 ~~human labor, or other public property under his or her~~
25 ~~discretion or control for the private benefit or business~~
26 ~~benefit of the public official, public employee, any other~~
27 ~~person, or principal campaign committee as defined in Section~~

1 ~~17-22A-2, which would materially affect his or her financial~~
2 ~~interest, except as otherwise provided by law or as provided~~
3 ~~pursuant to a lawful employment agreement regulated by agency~~
4 ~~policy. Provided, however, nothing in this subsection shall be~~
5 ~~deemed to limit or otherwise prohibit communication between~~
6 ~~public officials or public employees and eleemosynary or~~
7 ~~membership organizations or such organizations communicating~~
8 ~~with public officials or public employees. A member of a~~
9 ~~legislative body may not vote regarding any legislation in~~
10 ~~which he or she knows or should have known that he or she has~~
11 ~~a conflict of interest.~~

12 " (d) ~~No person shall solicit a public official or~~
13 ~~public employee to use or cause to be used equipment,~~
14 ~~facilities, time, materials, human labor, or other public~~
15 ~~property for such person's private benefit or business~~
16 ~~benefit, which would materially affect his or her financial~~
17 ~~interest, except as otherwise provided by law. A public~~
18 ~~servant shall not solicit or accept any money in addition to~~
19 ~~the salary received by the public servant in an official~~
20 ~~capacity for lobbying or otherwise providing advice or~~
21 ~~assistance on matters concerning the Legislature, a~~
22 ~~legislative body, an executive department, or any public~~
23 ~~regulatory board, commission, or other body of which he or she~~
24 ~~is a member. Notwithstanding the foregoing, nothing in this~~
25 ~~subsection shall be construed to prohibit a public servant~~
26 ~~from the performance of his or her official duties or~~
27 ~~responsibilities.~~

1 ~~"(e) No public official or public employee shall,~~
2 ~~other than in the ordinary course of business, solicit a thing~~
3 ~~of value from a subordinate or person or business with whom he~~
4 ~~or she directly inspects, regulates, or supervises in his or~~
5 ~~her official capacity.~~

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

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

21 §36-25-31.

22 (a) A public servant shall not use or cause to be
23 used equipment, facilities, time, materials, human labor, or
24 other public property under his or her discretion or control
25 for the private benefit or business benefit of the public
26 servant, any other person, or principal campaign committee as
27 defined in Section 17-5-2, which would materially affect his

1 or her financial interest, except as otherwise provided by law
2 or as provided pursuant to a lawful employment agreement
3 regulated by agency policy. Nothing in this subsection shall
4 be deemed to limit or otherwise prohibit communication between
5 public servants and eleemosynary or membership organizations
6 or such organizations communicating with public servants.

7 (b) No person shall solicit a public servant to use
8 or cause to be used equipment, facilities, time, materials,
9 human labor, or other public property for such person's
10 private benefit or business benefit, which would materially
11 affect his or her financial interest, except as otherwise
12 provided by law.

13 §36-25-32.

14 A public servant shall not use or disclose nonpublic
15 information in any way that could result in financial gain
16 other than his or her regular salary as a public servant for
17 himself or herself or any other person or business.

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

20 "~~§36-25-6.~~ §36-25-33.

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

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

26 "ARTICLE 5. GIFTS, MEALS, TRAVEL, ETC."

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

3 §36-25-40.

4 For purposes of this article, a thing of value which
5 is offered, solicited, or accepted indirectly includes any
6 thing of value that is either of the following:

7 (1) Given with the public servant's knowledge and
8 acquiescence to a family member of the public servant because
9 of the family member's relationship to the public servant.

10 (2) Given to any other person on the basis of
11 designation, recommendation, or other specification by the
12 public servant, except for the disposition of perishable items
13 or for payment made to charitable organizations in lieu of
14 honoraria.

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

17 "~~§36-25-7.~~ §36-25-41.

18 "~~(a) No person shall offer or give to a public~~
19 ~~official or public employee or a member of the household of a~~
20 ~~public employee or a member of the household of the public~~
21 ~~official and none of the aforementioned shall solicit or~~
22 ~~receive a thing of value for the purpose of influencing~~
23 ~~official action.~~ A public servant, directly or indirectly,
24 shall not solicit or accept a thing of value for any person,
25 including himself or herself, for the purpose of influencing
26 official action, nor shall any person, directly or indirectly,

1 offer or give to any public servant a thing of value for the
2 purpose of influencing official action.

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

15 ~~"(c) No person shall offer or give a family member~~
16 ~~of the public official or family member of the public employee~~
17 ~~a thing of value for the purpose of influencing official~~
18 ~~action.~~

19 ~~"(d) No public official or public employee, shall~~
20 ~~solicit or receive any money in addition to that received by~~
21 ~~the public official or public employee in an official capacity~~
22 ~~for advice or assistance on matters concerning the~~
23 ~~Legislature, lobbying a legislative body, an executive~~
24 ~~department or any public regulatory board, commission or other~~
25 ~~body of which he or she is a member. Notwithstanding the~~
26 ~~foregoing, nothing in this section shall be construed to~~
27 ~~prohibit a public official or public employee from the~~

1 ~~performance of his or her official duties or~~
2 ~~responsibilities."~~

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

5 §36-25-42.

6 Notwithstanding the prohibitions of paragraph (b) of
7 Section 36-25-41, a public servant may accept any of the
8 following:

9 (a) Anything with a value of twenty-five dollars
10 (\$25) or less per source per occasion, provided that the
11 aggregate value of all things of value received from any one
12 person during a calendar year does not exceed fifty dollars
13 (\$50).

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

17 (c) Anything given by a friend, regardless of value,
18 under circumstances which make it clear that the gift is
19 motivated by a personal friendship, unless the friend is a
20 prohibited source.

21 (d) Opportunities and benefits, including favorable
22 rates and commercial discounts, if the same opportunities and
23 benefits are offered on the same terms to any of the
24 following:

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

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

5 (3) Members of any group or class that is not
6 defined in a manner that specifically discriminates among
7 public servants on the basis of rank or type of official
8 responsibility.

9 (e) Reduced membership or other fees for
10 participation in organization activities offered to all
11 government employees by professional organizations if the only
12 restrictions on membership relate to professional
13 qualifications.

14 (f) Payment of or reimbursement for actual and
15 necessary transportation and lodging expenses in connection
16 with any of the following:

17 (1) An activity or event within the continental
18 United States or Alaska with a primary purpose that is
19 educational or informational in nature and which is
20 substantially related to the public servant's official duties
21 or in the interest of the public servant's agency, provided
22 that any associated hospitality or entertainment is limited to
23 less than 50 percent of the time spent at the activity or
24 event.

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

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

9 (g) Meals or other food and beverages where the
10 provider is present; provided, however, that whenever the
11 provider is a prohibited source, the total value of the food
12 and beverages accepted by the public servant and members of
13 his or her household may not exceed fifty dollars (\$50) per
14 occasion from all sources or an aggregate value of two hundred
15 dollars (\$200) from any one source during a calendar year. A
16 prohibited source may not pay for food and beverages
17 indirectly in order to assist a public servant in
18 circumventing the limitations of this subsection. Nothing
19 herein shall be construed to relieve a lobbyist, principal, or
20 other person of the duty to make reports of all expenditures
21 pursuant to Section 36-25-71.

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

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

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

9 §36-25-43.

10 A public servant shall not, other than in the
11 ordinary course of business, solicit a thing of value from a
12 subordinate or person or business that the public servant
13 directly inspects, regulates, or supervises in his or her
14 official capacity.

15 Section 25. Section 36-25-8, Code of Alabama 1975,
16 is repealed.

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

19 "ARTICLE 6. CONFLICTING FINANCIAL INTERESTS"

20 Section 27. Section 36-25-9 of the Code of Alabama
21 1975, is amended and renumbered to read:

22 "~~§36-25-9.~~ §36-25-50.

23 "(a) Unless expressly provided otherwise by law, ~~no~~
24 ~~person~~ public servant shall not serve as a member or employee
25 of a state, county, or municipal regulatory board or
26 commission or other body that regulates any business with
27 which ~~he~~ the person is associated. Nothing herein shall

1 prohibit real estate brokers, agents, developers, appraisers,
2 mortgage bankers, or other persons in the real estate field,
3 or other state-licensed professionals, from serving on any
4 planning boards or commissions, housing authorities, zoning
5 board, board of adjustment, code enforcement board, industrial
6 board, utilities board, state board, or commission.

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

18 "(c) ~~No~~ A member of any county or municipal agency,
19 board, or commission shall not vote or participate in any
20 matter in which the member or family member of the member has
21 any financial gain or interest.

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

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

27 "~~§36-25-10.~~ §36-25-51.

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

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

15 "~~§36-25-16.~~ §36-25-52.

16 "(a) When any citizen of the state or business with
17 which he or she is associated represents for a fee any person
18 before a regulatory body of the Executive Branch, he or she
19 shall report to the commission the name of any adult child,
20 parent, spouse, brother, or sister who is a public official or
21 a public employee of that regulatory body of the Executive
22 Branch.

23 "(b) When any citizen of the state or business with
24 which the person is associated enters into a contract for the
25 sale of goods or services to the State of Alabama or any of
26 its agencies or any county or municipality and any of their
27 respective agencies in amounts exceeding seven thousand five

1 hundred dollars (\$7,500), he or she shall report to the
2 commission the names of any adult child, parent, spouse,
3 brother, or sister who is a public official or public employee
4 of the agency or department with whom the contract is made.

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

8 ~~"(d) (c)~~ Each regulatory body of the Executive
9 Branch, or any agency of the State of Alabama shall be
10 responsible for notifying citizens affected by this chapter of
11 the requirements of this section."

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

14 ~~"§36-25-11. §36-25-53.~~

15 ~~"(a)~~ Unless exempt pursuant to Alabama competitive
16 bid laws or otherwise permitted by law, no public ~~official or~~
17 ~~public employee~~ servant, or a member of the household of the
18 public ~~employee or the public official~~ servant, and no
19 business with which the person is associated shall enter into
20 any contract to provide goods or services which is to be paid
21 in whole or in part out of state, county, or municipal funds
22 unless the contract has been awarded through a process of
23 competitive bidding and a copy of the contract is filed with
24 the commission. All such contract awards shall be made as a
25 result of original bid takings, and no awards from
26 negotiations after bidding shall be allowed. ~~A copy of each~~
27 ~~contract, regardless of the amount, entered into by a public~~

1 ~~official, public employee, a member of the household of the~~
2 ~~public employee or the public official, and any business with~~
3 ~~which the person is associated shall be filed with the~~
4 ~~commission within 10 days after the contract has been entered~~
5 ~~into.~~

6 "(b) A copy of any contract which is to be paid in
7 whole or in part out of state, county, or municipal funds,
8 regardless of the amount, entered into by a public servant, a
9 member of the household of the public servant, or any business
10 with which the person is associated shall be filed with the
11 commission within 10 days after the contract has been entered
12 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, an
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 which employed the filing public servant or
2 a family member of the public servant or to which the public
3 servant, or his or her spouse, or a business with which the
4 person is or was associated, provided services under a
5 personal or professional services contract during the last
6 reporting year, and which the public servant knows or
7 reasonably should know received any public funds, including
8 grants and contracts, 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 2009.