



GOVERNOR'S OFFICE

# FACT SHEET

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## ANTI-CORRUPTION REFORM PACKAGE

### Transparency and Accountability Act

#### *Background*

Currently, the Ethics Commission does not have the authority or the tools to provide the level of oversight and transparency that Alabamians deserve.

There is no way for the public to know what things of value are given to a public official, and there is no online listing of Ethics Commission reports and statements. While the Ethics Commission does offer ethics training seminars, it is not mandatory for all public officials to participate. Additionally, lobbyists who only lobby the Executive Branch do not have to follow many of the guidelines that legislative lobbyists must adhere to.

#### *What will this bill do?*

- This legislation will mandate that the Ethics Commission utilize electronic records and post those records on their website.
  - The Ethics Commission shall allow electronic filing of records to improve efficiency in the agency.
  - The Commission shall maintain a searchable database for public official reports, statements, and other filings.
  - The database will also include a searchable database of all things of value that have been provided to a public official and his or her family.
- The bill also requires mandatory ethics training for legislators, constitutional officers, cabinet, executive staff, local officials, and lobbyists. The curriculum will be developed by the Ethics Commission
- It also requires people who lobby the executive branch for grants and contracts to register and file disclosures with the Ethics Commission. This will ensure that these lobbyists have to adhere to the same strict rules as legislative lobbyists.

#### *Effective Date*

- This bill will be effective January 1, 2011.

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8 SYNOPSIS: This bill would revise the Code of Ethics to  
9 broaden the definition of lobbying to include  
10 promoting or attempting to influence the award of a  
11 contract or grant by the executive branch; define  
12 sphere of influence; provide that all records  
13 required to be filed with the Ethics Commission  
14 could be filed electronically; and require the  
15 commission to maintain an electronic database  
16 searchable by the public; and require mandatory  
17 ethics training for public officials, public  
18 employees, and lobbyists.

19  
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23  
24 To amend Sections 36-25-1 and 36-25-10, Code of  
25 Alabama 1975, relating to the Ethics Law; to broaden the  
26 definition of lobbying to include activity with the executive

~~27 branch, define sphere of influence, require the Ethics~~

1 Commission to allow electronic filing of records and maintain  
2 an electronic database searchable by the public, and require  
3 mandatory ethics training for public officials, public  
4 employees, and lobbyists.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 36-25-1 and 36-25-10, Code of  
7 Alabama 1975, are amended to read as follows:

8 "§36-25-1.

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

11 "(1) BUSINESS. Any corporation, partnership,  
12 proprietorship, firm, enterprise, franchise, association,  
13 organization, self-employed individual, or any other legal  
14 entity.

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

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

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

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

1                   "(6) COMPLAINANT. A person who alleges a violation  
2 or violations of this chapter by filing a complaint against a  
3 respondent.

4                   "(7) CONFIDENTIAL INFORMATION. A complaint filed  
5 pursuant to this chapter, together with any statement,  
6 conversations, knowledge of evidence, or information received  
7 from the complainant, witness, or other person related to such  
8 complaint.

9                   "(8) CONFLICT OF INTEREST. A conflict on the part of  
10 a public official or public employee between his or her  
11 private interests and the official responsibilities inherent  
12 in an office of public trust. A conflict of interest involves  
13 any action, inaction, or decision by a public official or  
14 public employee in the discharge of his or her official duties  
15 which would materially affect his or her financial interest or  
16 those of his or her family members or any business with which  
17 the person is associated in a manner different from the manner  
18 it affects the other members of the class to which he or she  
19 belongs. A conflict of interest shall not include any of the  
20 following:

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

23                   "b. An occasional nonpecuniary award publicly  
24 presented by an organization for performance of public  
25 service.

26                   "c. Payment of or reimbursement for actual and

~~27 necessary expenditures for travel and subsistence for the~~

1 personal attendance of a public official or public employee at  
2 a convention or other meeting at which he or she is scheduled  
3 to meaningfully participate in connection with his or her  
4 official duties and for which attendance no reimbursement is  
5 made by the state.

6 "d. Any campaign contribution, including the  
7 purchase of tickets to, or advertisements in journals, for  
8 political or testimonial dinners, if the contribution is  
9 actually used for political purposes and is not given under  
10 circumstances from which it could reasonably be inferred that  
11 the purpose of the contribution is to substantially influence  
12 a public official in the performance of his or her official  
13 duties.

14 "(9) DAY. Calendar day.

15 "(10) DEPENDENT. Any person, regardless of his or  
16 her legal residence or domicile, who receives 50 percent or  
17 more of his or her support from the public official or public  
18 employee or his or her spouse or who resided with the public  
19 official or public employee for more than 180 days during the  
20 reporting period.

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

23 "(12) FAMILY MEMBER OF THE PUBLIC OFFICIAL. The  
24 spouse, a dependent, an adult child and his or her spouse, a  
25 parent, a spouse's parents, a sibling and his or her spouse,  
26 of the public official.

1                   "(13) GOVERNMENTAL CORPORATIONS AND AUTHORITIES.

2           Public or private corporations and authorities, including but  
3           not limited to, hospitals or other health care corporations,  
4           established pursuant to state law by state, county or  
5           municipal governments for the purpose of carrying out a  
6           specific governmental function. Notwithstanding the foregoing,  
7           all employees, including contract employees, of hospitals or  
8           other health care corporations and authorities are exempt from  
9           the provisions of this chapter.

10                   "(14) HOUSEHOLD. The public official, public  
11           employee, and his or her spouse and dependents.

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

16                   "(16) LEGISLATIVE BODY. The Senate of Alabama, the  
17           House of Representatives of Alabama, a county commission, city  
18           council, city commission, town council, or municipal council  
19           or commission, and any committee or subcommittee thereof.

20                   "(17) LOBBYING. The practice of promoting, opposing,  
21           or in any manner influencing or attempting to influence the  
22           introduction, defeat, or enactment of legislation before any  
23           legislative body; opposing or in any manner influencing the  
24           executive approval, veto, or amendment of legislation;  
25           promoting or attempting to influence the awarding of a grant  
26           or contract with any executive department or agency; or the

~~27           practice of promoting, opposing, or in any manner influencing~~

1 or attempting to influence the enactment, promulgation,  
2 modification, or deletion of regulations before any regulatory  
3 body; provided, however, that providing public testimony  
4 before a legislative body or regulatory body or any committee  
5 thereof shall not be deemed lobbying.

6 "(18) LOBBYIST.

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

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

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

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

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

23 "5. An employee, a paid consultant, or a member of  
24 the staff of a lobbyist, whether or not he or she is paid, who  
25 regularly communicates with members of a legislative body  
26 regarding pending legislation and other matters while the

~~27 legislative body is in session.~~

1                    "b. The term lobbyist does not include any of the  
2 following:

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

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

12                   "3. Reporters and editors while pursuing normal  
13 reportorial and editorial duties.

14                   "4. Any citizen not expending funds as set out above  
15 in paragraph a.3. or not lobbying for compensation who  
16 contacts a member of a legislative body, or gives public  
17 testimony on a particular issue or on particular legislation,  
18 or for the purpose of influencing legislation and who is  
19 merely exercising his or her constitutional right to  
20 communicate with members of a legislative body.

21                   "5. A person who appears before a legislative body,  
22 a regulatory body, or an executive agency to either sell or  
23 purchase goods or services.

24                   "6. A person whose primary duties or  
25 responsibilities do not include lobbying, but who may, from  
26 time to time, organize social events for members of a

27 ~~legislative body to meet and confer with members of~~

1 professional organizations and who may have only irregular  
2 contacts with members of a legislative body when the body is  
3 not in session or when the body is in recess.

4 "(19) MINOR VIOLATION. Any violation of this chapter  
5 in which the public official or public employee receives an  
6 economic gain in an amount less than two hundred fifty dollars  
7 (\$250) or the governmental entity has an economic loss of less  
8 than two hundred fifty dollars (\$250).

9 "(20) PERSON. A business, individual, corporation,  
10 partnership, union, association, firm, committee, club, or  
11 other organization or group of persons.

12 "(21) PRINCIPAL. A person or business which employs,  
13 hires, or otherwise retains a lobbyist. Nothing in this  
14 chapter shall be deemed to prohibit a principal from  
15 simultaneously serving as his or her own lobbyist.

16 "(22) PROBABLE CAUSE. A finding that the allegations  
17 are more likely than not to have occurred.

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

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~~27 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~~ 17-13-40.

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

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

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

25 "(28) RESPONDENT. A person alleged to have violated  
26 a provision of this chapter and against whom a complaint has  
~~27 been filed with the commission.~~

1                   "(29) SPHERE OF INFLUENCE. The sphere of influence  
2 of a public official or public employee includes those issues,  
3 bodies, businesses, and projects that the public official or  
4 public employee is, by virtue of his or her office, in a  
5 position to affect, or over which he or she has authority.

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

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

19                   "~~(31)~~(32) THING OF VALUE.

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

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

1           "1. Campaign contribution.

2           "2. Seasonal gifts of an insignificant economic  
3 value of less than one hundred dollars (\$100) if the aggregate  
4 value of such gifts from any single donor is less than two  
5 hundred fifty dollars (\$250) during any one calendar year.

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

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

17           "5. Payment of or reimbursement for actual and  
18 necessary expenditures for travel and subsistence of a public  
19 official or public employee in connection with an economic  
20 development, research, or trade mission, or for attendance at  
21 a mission or meeting in which he or she is scheduled to  
22 meaningfully participate, or regarding matters related to his  
23 or her official duties, and for which attendance no  
24 reimbursement is made by the state; provided, that any  
25 hospitality in the form of entertainment, recreation, or  
26 sporting events shall constitute less than 25% of the time

~~27 spent in connection with the event. If the aggregate value of~~

1 any such hospitality extended to the public employee, public  
2 official, and his or her respective household is in excess of  
3 two hundred fifty dollars (\$250) within a calendar day, the  
4 total amount expended for that day shall be reported to the  
5 commission by the provider. The reporting shall include the  
6 name or names of the recipient or recipients, the value of  
7 such expenditures, the date or dates of the expenditure, and  
8 the type of expenditure.

9 "6. Promotional items commonly distributed to the  
10 general public and food or beverages of a nominal value.

11 "c. Nothing in this chapter shall be deemed to  
12 limit, prohibit, or otherwise require the disclosure of a  
13 personal gift made to a public official or public employee  
14 from a spouse, intended spouse, dependent, adult child,  
15 sibling, parent, grandparent, uncle, aunt, ~~nephews, nieces or~~  
16 ~~cousins~~ nephew, niece, or cousin of the public official or  
17 public employee, except as otherwise provided by law.

18 "d. Nothing in this chapter shall be deemed to  
19 limit, prohibit, or otherwise require the disclosure of gifts  
20 through inheritance received by a public employee or public  
21 official.

22 "(32) VALUE. The fair market price of a like item if  
23 purchased by a private citizen.

24 "§36-25-10.

25 "If a public official or public employee, or family  
26 member of the public employee or family member of the public

~~27 official, or a business with which the person is associated,~~

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

11 Section 2. (a) At the beginning of each legislative  
12 quadrennium, the State Ethics Commission shall provide for and  
13 administer training programs on the State Ethics Law for  
14 members of the Legislature, state constitutional officers,  
15 cabinet officers, executive staff, municipal mayors, council  
16 members and commissioners, county commissioners, and  
17 lobbyists.

18 (1) The training program for legislators shall be  
19 held at least once at the beginning of each quadrennium for  
20 members of the Legislature. An additional training program  
21 shall be held if any changes are made to Chapter 25, Title 36,  
22 Code of Alabama 1975, and shall be held within three months of  
23 the effective date of such changes. The time and place of the  
24 training programs shall be determined by the Executive  
25 Director of the State Ethics Commission and the Legislative  
26 Council. Each legislator must attend the training programs.

~~27 The State Ethics Commission shall also provide a mandatory~~

1 program for any legislator elected in a special election  
2 within three months of the date that such legislator assumes  
3 office.

4 (2) The training program for the state  
5 constitutional officers, cabinet members, and executive staff,  
6 as determined by the Governor, shall be held within the first  
7 30 days after the Governor has been sworn into office. An  
8 additional training program shall be held if any changes are  
9 made to Chapter 25, Title 36, Code of Alabama 1975, and shall  
10 be held within three months of the effective date of such  
11 changes. The specific date of the training program shall be  
12 established by the Executive Director of the State Ethics  
13 Commission with the advice of the Governor and other  
14 constitutional officers.

15 (3) The training program for lobbyists shall be held  
16 four times annually as designated by the Executive Director of  
17 the State Ethics Commission. Each lobbyist must attend a  
18 training program within 90 days of registering as a lobbyist.  
19 A lobbyist who fails to attend a training program shall not be  
20 allowed to lobby the Legislature, Executive Branch, Judicial  
21 Branch, public officials, or public employees. After attending  
22 one training program, a lobbyist shall not be required to  
23 attend an additional training program unless any changes are  
24 made to Chapter 25, Title 36, Code of Alabama 1975. Such  
25 additional mandatory training program shall be held within  
26 three months of the effective date of such changes.

1           (4) All municipal mayors, council members and  
2 commissioners, and county commissioners in office as of the  
3 effective date of this act shall obtain training within 120  
4 days of such date. Thereafter, all municipal mayors, council  
5 members and commissioners, and county commissioners shall  
6 obtain training within 120 days of being sworn into office.  
7 The scheduling of training opportunities for municipal mayors,  
8 council members and commissioners, and county commissioners  
9 shall be established by the Executive Director of the State  
10 Ethics Commission with the advice and assistance of the  
11 Alabama League of Municipalities and the Association of County  
12 Commissions of Alabama.

13           (b) The curriculum of each session and faculty for  
14 the training program shall be determined by the Executive  
15 Director of the State Ethics Commission. The curriculum shall  
16 include, but not be limited to, a review of the current law, a  
17 discussion of actual cases and advisory opinions on which the  
18 State Ethics Commission has ruled, and a question and answer  
19 period for attendees. The faculty for the training program may  
20 include the staff of the State Ethics Commission, members of  
21 the faculties of the various law schools in the state, and  
22 other persons deemed appropriate by the Executive Director of  
23 the State Ethics Commission and shall include experts in the  
24 field of ethics law, persons affected by the ethics law, and  
25 members of the press and media.

1 (c) Except as provided herein, attendance at any  
2 session of the training program shall be mandatory, except in  
3 the event the person is suffering a catastrophic illness.

4 (d) This act shall not preclude the penalizing,  
5 prosecution, or conviction of any member of the Legislature,  
6 any public official, or public employee prior to such person  
7 attending a mandatory training program.

8 Section 3. The commission, by April 1, 2012, shall  
9 implement and maintain each of the following:

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

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

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

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

26 Section 4. This act takes effect January 1, 2011.