

The Ethics in Government Laws

MISSISSIPPI CODE OF 1972

CHAPTER 4. ETHICS IN GOVERNMENT

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ARTICLE 1. MISSISSIPPI ETHICS COMMISSION

§ 25-4-1. Legislative intent

The Legislature hereby declares it essential to the proper operation of democratic government that public officials and employees be independent and impartial; that governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for private gain other than the remuneration provided by law; that there be public confidence in the integrity of government; and that public officials be assisted in determinations of conflicts of interest.

§ 25-4-3. Definitions

As used in this chapter, unless the context requires otherwise:

- (a) "Advisory boards or commissions" means committees created solely to provide technical or professional knowledge or expertise to a parent organization, and whose members exercise no direct authority to expend public funds other than reimbursement for personal expenses incurred as a result of a member's service on the advisory board;
- (b) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, self-employed individual, joint-stock company, receivership, trust or other legal entity or undertaking organized for economic gain or a nonprofit corporation or other such entity, association or organization receiving public funds;
- (c) "Candidate for public office" means an individual who has filed the necessary documents or papers to appear as a candidate for nomination for election or election to any elective office existing under the laws of the State of Mississippi, including primary, special or general elections. The term "candidate" does not include any person within the meaning of Section 301(b) of the Federal Election Campaign Act of 1971;
- (d) "Commission" means the Mississippi Ethics Commission;
- (e) "Compensation" means money or thing of value received, or to be received, from any person for services rendered or to be rendered;
- (f) "Household member" means:
 - (i) The spouse of the public servant; or
 - (ii) Any person over the age of twenty-one (21) who resided in the public servant's household during the entire reporting period.
- (g) "Income" means money or thing of value received, or to be received, from any source, including, but not limited to, any salary, wage, advance, payment, dividend, interest, rent, forgiveness of debt, fee, royalty or any combination thereof;

- (h) "Person" means any individual, firm, business, corporation, association, partnership, union or other legal entity;
- (i) "Public employee" means any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the Mississippi State Legislature or by the governing body of any political subdivision thereof, or any other body politic within the State of Mississippi;
- (j) "Public funds" means all monies, whether federal, state, district or local;
- (k) "Public official" means:
- (i) Any elected official of the State of Mississippi or any political subdivision thereof or any other body politic within the State of Mississippi; or
 - (ii) Any member, officer, director, commissioner, supervisor, chief, head, agent or employee of the State of Mississippi, or any agency thereof, of any political subdivision of the State of Mississippi, of any body politic within the State of Mississippi, or of any public entity created by or under the laws of the State of Mississippi or by executive order of the Governor of the state, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds;
- (l) "Public servant" means:
- (i) Any elected or appointed official of the government;
 - (ii) Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity created by or under the laws of the State of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or
 - (iii) Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.

§ 25-4-5. Mississippi Ethics Commission; establishment

- (1) There is hereby created the Mississippi Ethics Commission which shall be composed of eight (8) members, each of whom shall be a qualified elector of the State of Mississippi, of good moral character and integrity.
- (2) Two (2) members of the commission shall be appointed by each of the following officers in strict accordance with the above standards: the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the Chief Justice of the Mississippi Supreme Court. Not more than one (1) person appointed by each appointing authority shall be an elected official.

(3) The members of the initial commission shall be appointed for terms of office expiring one (1), two (2), three (3) and four (4) years, respectively, from the effective date of this chapter, the members appointed by the Governor having a one-year term and a four-year term, the members appointed by the Lieutenant Governor having a two-year term and a three-year term, the members appointed by the Speaker having a three-year term and a two-year term, and the members appointed by the Chief Justice having a four-year term and a one-year term.

(4) Successors to the members of the initial commission shall each be appointed for terms of four (4) years and until their successors are appointed and have been duly qualified.

(5) If any of the above-listed appointing authorities should fail to make his appointment to the initial commission within forty-five (45) days after the effective date of this chapter, fail to fill a vacancy within forty-five (45) days after such vacancy occurs, or fail to make his appointment for a full term to the commission, then the Chief Justice of the Mississippi Supreme Court shall make such appointment; provided, however, that the term of such appointee shall be for the period prescribed for the appointment by the authority who was to have made the appointment but who failed to do so. If at any time there should be a vacancy on the commission, a successor member to serve for the unexpired term applicable to such vacancy shall be appointed by the same appointing authority as the member whose unexpired term such successor is to fill.

(6) Any member of the commission who is indicted for any felony may be suspended by the commission from service on the commission. A commission member who is convicted of a misdemeanor involving moral turpitude or convicted of any felony shall be ineligible to serve and the member's position on the commission shall be vacant and subject to reappointment as for other vacancies.

§ 25-4-7. Commission meeting

As soon as all of the initial members of the commission have been appointed, the Chief Justice of the Mississippi Supreme Court shall call and provide for the holding of an organizational meeting of the commission; provided, however, in no instance shall such meeting be set for less than forty-five (45) days nor more than sixty (60) days after the effective date of this chapter.

§ 25-4-9. Election of commission chair and vice-chair

The commission shall annually elect one (1) member to serve as chairman of the commission and one (1) member to serve as vice chairman. The vice chairman shall act as chairman in the absence or upon the disability of the chairman or in the event of a vacancy of the office of the chairman.

§ 25-4-11. Commission quorum

(1) Five (5) members of the commission shall constitute a quorum. Five (5) members of the commission shall vote in the affirmative before any official action can be taken by the commission. Execution of such official action may be delegated to the chairman or executive director of the commission.

(2) A vacancy in the commission shall not impair the right of the remaining members to exercise all the powers of the commission subject to the requirements of subsection (1) of this section.

§ 25-4-13. Per diem compensation

Members of the Mississippi Ethics Commission shall, while serving on business of the commission, be entitled to receive as compensation a per diem, as is provided by law, not to exceed Three Thousand One Hundred Twenty-five Dollars (\$3,125.00) annually, in addition to any actual and necessary expenses incurred in the performance of the official duties of the commission.

§ 25-4-15. Appointment of director; personnel

(1) The commission shall appoint an executive director to serve at the pleasure of the commission. The executive director shall possess a high degree of professional competence and integrity. The executive director shall be responsible for the administrative operations of the commission and shall perform other such duties within its powers as may be delegated or assigned from time to time by regulations or orders of the commission. The commission, by and through its executive director, may employ the personnel necessary to properly discharge the duties and responsibilities of the commission, subject to budgetary limitations. Such personnel shall possess a high degree of professional competence and integrity in the area in which employed.

(2) All employees of the commission shall be excluded from the provisions of Section 25-9-101 et seq., relating to the State Personnel System.

§ 25-4-17. Commission responsibilities

The commission shall, in addition to any other duties prescribed by law:

(a) Prepare and publish a manual setting forth recommended uniform methods of accounting and reporting for use by persons required to file statements of economic interest pursuant to the provisions of this chapter;

- (b) Prescribe forms for statements of economic interest required to be filed pursuant to this chapter and furnish such forms to persons required to file such statements of economic interest pursuant to this chapter;
- (c) Accept and file any statements or information voluntarily supplied by persons required to file statements of economic interest under this chapter that exceeds the requirements of this chapter;
- (d) Develop and maintain a filing, coding and cross-indexing system of statements of economic interest, complaints, responses and other actions undertaken by the commission pursuant to this chapter;
- (e) Make statements of economic interest which are required to be filed by this chapter available by means of the commission's Internet Web site on or before January 1, 2010, as well as at the physical office location of the commission for public inspection and copying during regular business hours;
- (f) Preserve such statements of economic interest for a period of seven (7) years from the date of their receipt;
- (g) Establish rules and regulations in furtherance of the purposes of this chapter and to insure and maintain the confidentiality and integrity of the commission, its proceedings, investigations and findings, it being the intent of this chapter to promote high standards of competence and conduct by the commission and its staff, and to insure that all matters designated as confidential shall remain confidential; provided, however, that nothing in this chapter shall be construed to prohibit the commission, in its discretion, from releasing information to the public relating to its findings, proceedings, or investigations, or from holding open meetings on nonconfidential matters;
- (h) Study the body of Mississippi criminal law pertaining to public officials and report its findings and recommendations in summary form to each regular session of the Legislature;
- (i) (i) Have the authority, in its discretion, to issue advisory opinions with regard to any of such standards of conduct set forth in Article 3, Chapter 4, Title 25, Mississippi Code of 1972. When any public official requests in writing such an advisory opinion and has stated all the facts to govern such opinion, and the commission has prepared and delivered such opinion with references thereto, there shall be no civil or criminal liability accruing to or against any such public official who, in good faith, follows the direction of such opinion and acts in accordance therewith unless a court of competent jurisdiction, after a full hearing, shall judicially declare that such opinion is manifestly wrong and without any substantial support. No opinion shall be given or considered if said opinion would be given after judicial proceedings are commenced.

All advisory opinions issued pursuant to the provisions of this paragraph shall be made public and shall be issued within ninety (90) days of written request. The request for an advisory opinion shall be confidential as to the identity of the individual making the request. The commission shall, so far as practicable and before making public, an advisory opinion issued under the provisions of this paragraph, make such deletions and changes thereto as may be necessary to ensure the anonymity of the public official and any other person named in the opinion;

(ii) Have the authority, in its discretion, to authorize the executive director to issue written opinions in regard to any standards of conduct set forth in Article 3 of this chapter.

1. Any written opinion of the executive director shall be based upon prior opinions issued by the commission or reported court decisions of Mississippi courts, are not binding on the commission, shall not be published, and shall be ratified or rejected by the commission at the next subsequent meeting of the commission.

2. If the commission ratifies the opinion, the requestor shall not be liable for funds described in the request for opinion, and the requestor shall enjoy the immunity from liability set forth in subparagraph (i).

3. If the commission rejects the opinion, the requestor shall not be liable for funds described in the request for opinion that are paid before receipt of notice that the opinion had been rejected by the commission.

(j) Within ninety (90) days, issue advisory opinions, upon written request by any individual required to file a statement of economic interest under the provisions of Section 25-4-25, pertaining to the content of the statement of economic interest which such individual is required to file under the provisions of Section 25-4-27. When such an advisory opinion is issued pursuant to a complete and accurate request, then there shall be no liability, civil or criminal, accruing to or against the individual requesting such opinion who, in good faith, follows the direction of the opinion and makes disclosure in accordance therewith unless a court of competent jurisdiction, after a full hearing, shall judicially declare that such opinion is manifestly wrong and without substantial support. No opinion shall be given or considered if such opinion is given after suit is filed or prosecution begun. All requests for advisory opinions and all advisory opinions issued pursuant to the provisions of this paragraph shall be confidential and the commission shall not publicly disclose any advisory opinion issued or the fact that an advisory opinion has been requested or issued unless the individual requesting the opinion gives his permission, in writing, to the commission; and

(k) Maintain an Internet Web site capable of supporting the public information access and filing capabilities required under this chapter.

§ 25-4-18. Committee requests for opinions; ethics of legislators

(1) The appropriate committee designated by the Senate or the House of Representatives of the State of Mississippi to deal with ethical matters of their respective body may request, in writing, an opinion from the Attorney General as to real or hypothetical situations concerning a member of their respective body, but only upon request of such member. The Attorney General shall issue his opinion, in writing, in response to such request.

(2) When a request pursuant to subsection (1) of this section shall have stated all the facts to govern such opinion and an opinion shall have been prepared and delivered with reference thereto, there shall be no liability, civil or criminal, accruing to or against the member requesting

the opinion who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction, after a full hearing, shall judicially declare that such opinion is manifestly wrong and without substantial support. No opinion shall be given or considered if such opinion is requested after suit is filed or prosecution begun.

(3) All requests for opinions and all opinions issued pursuant to the provisions of this section shall be confidential and neither the Attorney General nor the committee shall publicly disclose any opinion issued or the fact that an opinion has been requested or issued unless the member requesting the opinion gives his permission, in writing, to the appropriate committee of his respective house.

(4) The provisions of this section shall be supplemental and in addition to any other statute.

§ 25-4-19. Authority of commission

The commission shall have the authority to do the following:

- (a) (i) Make investigations, as provided in Section 25-4-21, with respect to statements of economic interest filed pursuant to this chapter and with respect to alleged failures to file any statement of economic interest as required pursuant to this chapter;
- (ii) Administratively impose a civil penalty as provided in Sections 25-4-29 and 25-4-109;
- (b) Request the assistance of the Attorney General, the Performance Evaluation and Expenditure Review Committee, the Department of Audit and any other governmental agency or political subdivision in the conduct of any investigation in which a particular resource of an agency may be needed;
- (c) Administer oaths and issue and serve subpoenas upon any witness or for the production of documents before the commission, and such subpoenas may include a protective order requiring confidentiality of the subpoena, the subject matter, and any documents subpoenaed, and such subpoenas shall be enforced by the courts of this state;
- (d) Report when necessary, as provided in Section 25-4-21(e), to the Attorney General and appropriate district attorney;
- (e) Upon a complaint signed under oath by any person, including any member of the commission or its staff or referred to the commission by the Joint Legislative Committee on Performance Evaluation and Expenditure Review, investigate, as provided in Section 25-4-21, any alleged violation of law by public officials or public employees;
- (f) Seek, in the name of and for the use and benefit of the State of Mississippi, or a political subdivision thereof, restitution or other equitable or legal remedies in civil law to recover public funds or property unlawfully taken, as well as any unjust enrichment, although not public funds, and to recover on bonds where the state or a political subdivision thereof is the beneficiary;

(g) Employ an attorney or attorneys to:

- (i) Serve as a special prosecutor to assist the Attorney General or a district attorney; and
- (ii) File actions to seek restitution or other remedies to recover funds as provided in paragraph (f) of this section;

(h) Publish notices for posting in governmental offices that outline the jurisdiction and authority of the commission and the procedure for filing complaints and requesting opinions.

§ 25-4-21. Complaints; procedures

(1) Upon receipt of a complaint that complies with Section 25-4-19, the commission shall authorize a confidential investigation of the complaint. Upon completion of the investigation, the commission shall proceed as follows:

(a) If the complaint concerns a public official in the legislative branch, the commission shall refer the complaint, confidentially, to the public official and to the appropriate committee of the House of Representatives or the Senate having jurisdiction over the ethical conduct of its members and employees.

(b) If the complaint concerns a public official in the judicial branch, the commission shall refer the complaint, confidentially, to the public official and to the Commission on Judicial Performance or the Chief Justice of the Supreme Court.

(c) If the complaint concerns a public official in the executive branch or persons not covered in paragraph (a) or (b) of this section, then the commission shall refer the complaint, confidentially, to the public official and to the head of the department or agency, if the person is in the executive branch, or, for other public officials, to the person about whom the complaint is filed.

(d) The persons, committees or commission receiving complaints referred in paragraph (a), (b) or (c) shall have thirty (30) days within which to respond to the complaint.

(e) After receiving the response to the complaint or, if no response is received after thirty (30) days from the notice of referral, the commission may, in its discretion, terminate the matter or proceed with an investigation as follows:

(i) The commission may terminate any and all proceedings at any stage of its procedure upon a determination that an appropriate disposition of the matter has occurred.

(ii) If the investigation indicates probable cause for belief that a violation of law has occurred, the commission may set a hearing of the matter to be held in accordance with the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence. After the hearing, the commission may order penalties as prescribed in this chapter. The commission may enroll its order as a civil judgment with the circuit clerk in the county of residence of the judgment debtor.

The commission may enforce the judgment on behalf of the State General Fund in the same manner as prescribed for other civil judgments, after complying with subsection (2) of this section.

(iii) The commission may refer the complaint with any evidence gathered during the investigation to the Attorney General and to the district attorney having jurisdiction, with a recommendation that it be considered for presentation to the grand jury. The Attorney General and the district attorney shall report back to the commission within ninety (90) days as to what action was taken following receipt of the complaint and recommendations of the commission, including the intent of the Attorney General to seek further civil remedies and the intent of the district attorney to present such matter to the grand jury.

(2) Any person aggrieved by a decision of the commission made pursuant to its hearing procedures may appeal de novo to the Circuit Court for Hinds County and execution of the commission's decision shall be stayed upon the filing of a notice of appeal.

(3) Civil actions taken by the commission shall not bar prosecutions for violations of the criminal law.

§ 25-4-23. Nondisclosure requirements

All commission proceedings and records relating to any investigation shall be kept confidential, except this requirement shall not be construed to interfere with the commission's authority, pursuant to [paragraph \(g\) of Section 25-4-17](#), [paragraphs \(d\) and \(f\) of Section 25-4-19](#), and pursuant to [Section 25-4-21](#), or when necessary for prosecutions of violations under [Section 25-4-31](#).

See also [Section 25-4-19\(b\)](#).

§ 25-4-25. Statement of economic interest; filing generally

Each of the following individuals shall file a statement of economic interest with the commission in accordance with the provisions of this chapter:

(a) Persons elected by popular vote, excluding United States Senators and United States Representatives, to any office, whether it be legislative, executive or judicial, and whether it be statewide, district, county, municipal or any other political subdivision, with the exception of members of boards of levee commissioners and election commissioners;

(b) Members of local school boards that administer public funds, regardless of whether such members are elected or appointed;

(c) Persons who are candidates for public office or who are appointed to fill a vacancy in an office who, if elected, would be required to file under paragraph (a) of this section;

(d) Executive directors or heads of state agencies, by whatever name they are designated, who are paid in part or in whole, directly or indirectly, from funds appropriated or authorized to be expended by the Legislature, and the presidents and trustees of all state-supported colleges, universities and junior colleges;

(e) Members of any state board, commission or agency, including the Mississippi Ethics Commission, charged with the administration or expenditure of public funds, with the exception of advisory boards or commissions; provided, however, in order to fulfill the legislative purposes of this chapter, the commission may require, upon a majority vote, the filing of a statement of economic interest by members of an advisory board or commission.

(f) Executive directors, heads, or members of any board, committee, commission or council of any of the following entities, by whatever name designated:

(i) An economic development district established pursuant to Title 19, Chapter 5, Mississippi Code of 1972;

(ii) Any entity created pursuant to the Regional Economic Development Act, Title 57, Chapter 64, Mississippi Code of 1972;

(iii) Any county development commission established pursuant to Title 59, Chapter 9, Mississippi Code of 1972;

(iv) Any industrial council established pursuant to Title 57, Chapter 32, Mississippi Code of 1972; or

(v) An airport authority established pursuant to statute or other legislative act.

§ 25-4-27. Statement; mandatory financial information

Each person specified under Section 25-4-25 shall file a statement in accordance with the provisions of this chapter in the manner and format prescribed by the commission which shall be certified as to the accuracy and completeness of the information set forth to the best knowledge of the person submitting the statement. The commission shall develop a system of electronic filing for use by persons required to file a statement of economic interest. The commission shall implement the electronic filing system on or before January 1, 2010. Any person required to file with the commission shall file electronically on and after January 1, 2010. The statement shall include the following information for the preceding calendar year:

(a) The name and mailing address of the filer;

(b) The title, position and offices whereby the person is required to file;

(c) All other occupations of the filer and his household members;

(d) The names and addresses of all businesses in which the filer or a household member held a position, and the name of the position, if the person or a household member:

(i) Receives more than Two Thousand Five Hundred Dollars (\$2,500.00) per year in income from the business;

(ii) Owns ten percent (10%) or more of the fair market value in the business;

(iii) Owns an ownership interest in the business, the fair market value of which exceeds Five Thousand Dollars (\$5,000.00); or

(iv) Is an employee, director or officer of the business;

(e) Any representation or intervention for compensation by a person specified under Section 25-4-25(a) and (d) for any person or business before any authority of state or local government, excluding the courts; provided, however, that this provision shall not apply where the representation involves only uncontested or routine matters. The statement shall identify the person represented and the nature of the business involved; and

(f) The filing party shall list all public bodies from which he or a household member received compensation in excess of One Thousand Dollars (\$1,000.00).

§ 25-4-28. Blind Trusts

(1) A public official or public employee who has an interest in a blind trust which meets the standards set forth in this section is not required to disclose the holdings of the blind trust, if those holdings are acquired by the trustee after the trust complies with subsection (2).

(2) A blind trust shall comply with the following conditions:

(a) The trustee of a blind trust shall be:

(i) A bank, trust or brokerage company authorized to exercise fiduciary powers, an individual who is an employee of any such bank, trust or brokerage company, a law firm or an attorney;

(ii) A disinterested party other than the public official or employee's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, first cousin, or the spouse of any such person;

(iii) Someone who is not a public official or public employee; and

(iv) Someone who has not been appointed to a public entity by the public official or public employee, or by a public official or public employee supervised by the filer.

(b) The trustee shall be given complete discretion to manage the trust, including, but not limited to, the power to dispose of and acquire trust holdings without consulting or notifying the filer.

(c) The trustee is prohibited from disclosing to the filer any information concerning the replacement holdings except for information required under this subsection or the minimum tax information which lists only the totals of taxable items from the trust and does not describe the source of individual items of income.

(d) A copy of the trust agreement shall be filed with the commission within five (5) business days after execution, including an identification of the holdings placed in trust, a statement detailing the date of its creation, and the name and address of the trustee.

(e) The trustee annually shall file with the commission a signed statement, under penalty of perjury, stating that he or she has not revealed any information to the filer other than as permitted under this section and that, to the best of the trustee's knowledge, the trust is in compliance with this section.

(f) The trustee and the public official or public employee shall not communicate about the blind trust, directly or indirectly, except in writing, and a copy of all such written communications shall be transmitted to the commission.

(g) The blind trust may be revocable or irrevocable. If the trust is revoked during the period of the public official's or public employee's tenure in office, then the public official or public employee, within ten (10) business days, shall file a statement in accordance with Section 25-4-25 disclosing all of the assets of the trust at the time of its revocation.

(h) A public official or public employee who had a blind trust prior to the effective date of this section shall amend the terms of such trust if any of its terms fail to comply with this section. A public official or public employee who had a preexisting blind trust shall also comply with the disclosure requirements of paragraph (d). Nothing in this section shall be construed to require the disclosure of assets held in a preexisting blind trust except for the assets placed into the trust at the time of its creation.

§ 25-4-29. Statement; filing deadlines

(1) Required statements hereunder shall be filed as follows:

(a) Every incumbent public official required by items (a), (b), (d) and (e) of Section 25-4-25 to file a statement of economic interest shall file such statement with the commission on or before May 1 of each year that such official holds office, regardless of duration;

(b) Candidates for office required to file a statement hereunder shall file such statement within fifteen (15) days after the time that such person becomes a candidate for public office;

(c) Persons who are required to file a statement because of appointment to fill a vacancy in an office or required to file under Section 25-4-25(d) and (e) shall file such statement within thirty (30) days of their appointment;

(d) No person by reason of successful candidacy or assuming additional offices shall be required to file more than one (1) statement of economic interest in any calendar year, except such official shall notify the commission as soon as practicable of additional offices not previously reported; and

(e) The commission may, on an individual case basis, provide for additional time to file a statement upon a showing that compliance with a filing date set out under paragraph (a), (b), (c) or (d) above would work an unreasonable hardship.

(2) Any person who fails to file a statement of economic interest within thirty (30) days of the date the statement is due shall be deemed delinquent by the commission. The commission shall give written notice of the delinquency to the person by United States mail, restricted delivery, or by personal service of process. If within fifteen (15) days of receiving written notice of delinquency the delinquent filer has not filed the statement of economic interest, a fine of Ten Dollars (\$10.00) per day shall be assessed against the delinquent filer for each day thereafter in which the statement of economic interest is not properly filed. The commission shall enroll such assessment as a civil judgment with the circuit clerk in the delinquent filer's county of residence. The commission may enforce the judgment for the benefit of the State General Fund in the same manner as is prescribed for other civil judgments.

§ 25-4-31. Penalties

(1) Any person who violates the confidentiality of a commission proceeding pursuant to this chapter is guilty of a misdemeanor and, upon conviction, shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than one (1) year, or be both fined and imprisoned.

(2) Any person who willfully and knowingly files a false complaint with the commission or who willfully affirms, reports or swears falsely in regard to any material matter before a commission proceeding is guilty of a felony, and, upon conviction, shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or committed to the custody of the Department of Corrections for not more than five (5) years, or by both such fine and imprisonment.

(3) Any person who, having been served with written notice of delinquency, shall fail to file a disclosure statement as required by this chapter within one (1) year of the date the statement is due, or who shall, although filing such statement, knowingly fail to disclose information required by this chapter, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Ten Thousand Dollars (\$10,000.00).

ARTICLE 3. CONFLICT OF INTEREST; IMPROPER USE OF OFFICE

§ 25-4-101. Legislative declaration

The legislature declares that elective and public office and employment is a public trust and any effort to realize personal gain through official conduct, other than as provided by law, or as a natural consequence of the employment or position, is a violation of that trust. Therefore, public servants shall endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of this trust and which will not reflect unfavorably upon the state and local governments.

§ 25-4-103. Definitions

The following definitions apply in this article unless the context otherwise requires:

- (a) "Authority" means any component unit of a governmental entity.
- (b) "Benefit" means any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.
- (c) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, holding company, self-employed individual, joint stock company, receivership, trust or other legal entity or undertaking organized for economic gain, a nonprofit corporation or other such entity, association or organization receiving public funds.
- (d) "Business with which he is associated" means any business of which a public servant or his relative is an officer, director, owner, partner, employee or is a holder of more than ten percent (10%) of the fair market value or from which he or his relative derives more than Two Thousand Five Hundred Dollars (\$2,500.00) in annual income or over which such public servant or his relative exercises control.
- (e) "Compensation" means money or thing of value received, or to be received, from any person for services rendered.
- (f) "Contract" means:
 - (i) Any agreement to which the government is a party; or
 - (ii) Any agreement on behalf of the government which involves the payment of public funds.
- (g) "Government" means the state and all political entities thereof, both collectively and separately, including but not limited to:
 - (i) Counties;

(ii) Municipalities;

(iii) All school districts;

(iv) All courts; and

(v) Any department, agency, board, commission, institution, instrumentality, or legislative or administrative body of the state, counties or municipalities created by statute, ordinance or executive order including all units that expend public funds.

(h) "Governmental entity" means the state, a county, a municipality or any other separate political subdivision authorized by law to exercise a part of the sovereign power of the state.

(i) "Income" means money or thing of value received, or to be received, from any source derived, including but not limited to, any salary, wage, advance, payment, dividend, interest, rent, forgiveness of debt, fee, royalty, commission or any combination thereof.

(j) "Intellectual property" means any formula, pattern, compilation, program, device, method, technique or process created primarily as a result of the research effort of an employee or employees of an institution of higher learning of the State of Mississippi.

(k) "Material financial interest" means a personal and pecuniary interest, direct or indirect, accruing to a public servant or spouse, either individually or in combination with each other. Notwithstanding the foregoing, the following shall not be deemed to be a material financial interest with respect to a business with which a public servant may be associated:

(i) Ownership of any interest of less than ten percent (10%) in a business where the aggregate annual net income to the public servant therefrom is less than One Thousand Dollars (\$1,000.00);

(ii) Ownership of any interest of less than two percent (2%) in a business where the aggregate annual net income to the public servant therefrom is less than Five Thousand Dollars (\$5,000.00);

(iii) The income as an employee of a relative if neither the public servant or relative is an officer, director or partner in the business and any ownership interest would not be deemed material pursuant to subparagraph (i) or (ii) herein; or

(iv) The income of the spouse of a public servant when such spouse is a contractor, subcontractor or vendor with the governmental entity that employs the public servant and the public servant exercises no control, direct or indirect, over the contract between the spouse and such governmental entity.

(l) "Pecuniary benefit" means benefit in the form of money, property, commercial interests or anything else the primary significance of which is economic gain. Expenses associated with social occasions afforded public servants shall not be deemed a pecuniary benefit.

(m) "Person" means any individual, firm, business, corporation, association, partnership, union or other legal entity, and where appropriate a governmental entity.

(n) "Property" means all real or personal property.

(o) "Public funds" means money belonging to the government.

(p) "Public servant" means:

(i) Any elected or appointed official of the government;

(ii) Any officer, director, commissioner, supervisor, chief, head, agent or employee of the government or any agency thereof, or of any public entity created by or under the laws of the state of Mississippi or created by an agency or governmental entity thereof, any of which is funded by public funds or which expends, authorizes or recommends the use of public funds; or

(iii) Any individual who receives a salary, per diem or expenses paid in whole or in part out of funds authorized to be expended by the government.

(q) "Relative" means:

(i) The spouse of the public servant;

(ii) The child of the public servant;

(iii) The parent of the public servant;

(iv) The sibling of the public servant; and

(v) The spouse of any of the relatives of the public servant specified in subparagraphs (ii) through (iv).

(r) "Securities" means stocks, bonds, notes, convertible debentures, warrants, evidences of debts or property or other such documents.

§ 25-4-105. Contract restrictions and other prohibited conduct; penalties

(1) No public servant shall use his official position to obtain, or attempt to obtain, pecuniary benefit for himself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he is associated.

(2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.

(3) No public servant shall:

- (a) Be a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent, other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee or agent.
- (b) Be a purchaser, direct or indirect, at any sale made by him in his official capacity or by the governmental entity of which he is an officer or employee, except in respect of the sale of goods or services when provided as public utilities or offered to the general public on a uniform price schedule.
- (c) Be a purchaser, direct or indirect, of any claim, certificate, warrant or other security issued by or to be paid out of the treasury of the governmental entity of which he is an officer or employee.
- (d) Perform any service for any compensation during his term of office or employment by which he attempts to influence a decision of the authority of the governmental entity of which he is a member.
- (e) Perform any service for any compensation for any person or business after termination of his office or employment in relation to any case, decision, proceeding or application with respect to which he was directly concerned or in which he personally participated during the period of his service or employment.

(4) Notwithstanding the provisions of subsection (3) of this section, a public servant or his relative:

- (a) May be an officer or stockholder of banks or savings and loan associations or other such financial institutions bidding for bonds, notes or other evidences of debt or for the privilege of keeping as depositories the public funds of a governmental entity thereof or the editor or employee of any newspaper in which legal notices are required to be published in respect to the publication of said legal notices.
- (b) May be a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent where such contract is let to the lowest and best bidder after competitive bidding and three (3) or more legitimate bids are received or where the goods, services or property involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.
- (c) May be a subcontractor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a subcontractor with any

authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee or agent where the primary contract is let to the lowest and best bidder after competitive bidding or where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.

(d) May be a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent or have a material financial interest in a business which is a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee or agent: (i) where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws; or (ii) where the contractual relationship involves the further research, development, testing, promotion or merchandising of an intellectual property created by the public servant.

(e) May purchase securities issued by the governmental entity of which he is an officer or employee if such securities are offered to the general public and are purchased at the same price as such securities are offered to the general public.

(f) May have an interest less than a material financial interest in a business which is a contractor, subcontractor or vendor with any governmental entity.

(g) May contract with the Mississippi Veteran's Home Purchase Board, Mississippi Housing Finance Corporation, or any other state loan program, for the purpose of securing a loan; however, public servants shall not receive favored treatment.

(h) May be employed by or receive compensation from an authority of the governmental entity other than the authority of the governmental entity of which the public servant is an officer or employee.

(i) If a member of the Legislature or other public servant employed on less than a full-time basis, may represent a person or organization for compensation before an authority of the governmental entity other than an authority of the governmental entity of which he is an officer or employee.

(j) If a constable, may be employed and receive compensation as a deputy sheriff or other employee of the county for which he serves as constable.

(5) No person may intentionally use or disclose information gained in the course of or by reason of his official position or employment as a public servant in any way that could result in pecuniary benefit for himself, any relative, or any other person, if the information has not been communicated to the public or is not public information.

(6) Any contract made in violation of this section may be declared void by the governing body of the contracting or selling authority of the governmental subdivision or a court of competent jurisdiction and the contractor or subcontractor shall retain or receive only the reasonable value,

with no increment for profit or commission, of the property or the services furnished prior to the date of receiving notice that the contract has been voided.

(7) Any person violating the provisions of this section shall be punished as provided for in Sections 25-4-109 and 25-4-111.

§ 25-4-107. Complaints; hearings; appeals

(1) The commission may pursue enforcement of this chapter by means of hearings held before the commission or an independent hearing officer to determine whether a respondent violated the law and, if so, what penalty should be imposed. Hearings shall be conducted according to the Mississippi Rules of Civil Procedure and the Mississippi Rules of Evidence.

(2) Any person aggrieved by a decision of the commission made pursuant to its hearing procedures may appeal de novo to the Circuit Court for Hinds County, and execution of the commission's decision shall be stayed upon the filing of a notice of appeal.

§ 25-4-109. Fines and other penalties

(1) Upon a finding by clear and convincing evidence that any elected public servant or other person has violated any provision of this article, the commission may censure the elected public servant or impose a civil fine of not more than Ten Thousand Dollars (\$10,000.00), or both. The commission may further recommend to the Circuit Court for Hinds County that the elected public servant be removed from office.

(2) Upon a finding by clear and convincing evidence that any nonelected public servant has violated any provision of this article, the commission may censure the nonelected public servant or impose a civil fine of not more than Ten Thousand Dollars (\$10,000.00), or both. The commission may further recommend to the Circuit Court for Hinds County that the nonelected public servant be removed from office, suspended, or subjected to a demotion or reduction in pay.

(3) The commission may order restitution or other equitable or legal remedies to recover public funds or property unlawfully taken, as well as unjust enrichment, although not public funds. Any pecuniary benefit received by a public servant in violation of this article may be declared forfeited by the commission for the benefit of the governmental entity injured.

(4) In the event a public servant does not appeal the decision or recommendation of the commission, the commission may petition the Circuit Court for Hinds County for the removal, suspension, demotion or reduction of pay of the public servant as provided by law.

§ 25-4-111. Actions taken for violations

(1) An authority head and any other public servant having the authority to appoint a person to a position of public service, regardless of whether or not such appointment requires the approval of the senate or any other body, employee or person, shall take such action as may be ordered by a circuit court of competent jurisdiction with respect to any public employee within his authority or any such appointee upon a finding by such court that such employee or appointee has violated any provision of this article. Such action may include the imposition of the conditions described in subsection (2) of section 25-4-109.

(2) Upon a finding by a circuit court of competent jurisdiction that a former public servant or other person has violated any provision of this article or any order promulgated hereunder, such court shall bar or impose reasonable conditions upon:

(a) The appearance before any authority of such former public servant or other person.

(b) The conduct of, or negotiation or competition for, business with any authority by such former public servant or other person for such period of time as may be necessary or appropriate to effectuate the purposes of this article.

§ 25-4-113. Civil actions by government violators; costs and attorney fees

The attorney general of the state of Mississippi, the commission, or any governmental entity directly injured by a violation of this act may bring a separate civil action against the public servant or other person or business violating the provisions of this article for recovery of damages suffered as a result of such violation. Further, any pecuniary benefit received by or given by a public servant in violation of this article shall be declared forfeited by a circuit court of competent jurisdiction for the benefit of the governmental entity injured. In the discretion of the court, any judgment for damages or forfeiture of pecuniary benefit may include costs of court and reasonable attorney's fees.

§ 25-4-115. Other rights or liability not restricted

This article shall not bar, suspend or otherwise restrict any right or liability to damage, penalty, forfeiture, restitution or other remedy authorized by law to be recovered or enforced in a civil action, regardless of whether the conduct involved in the proceeding constituted an offense covered by this article.

§ 25-4-117. Criminal prosecutions allowed

The provisions of this article shall be in addition to any criminal laws. Actions taken under the provisions of this article shall not bar prosecution for violations of the criminal law.

§ 25-4-119. Pecuniary benefits; prohibition

No elected or appointed official shall derive any pecuniary benefit, directly or indirectly, as a result of such elected or appointed official's duties under Sections 21-19-33, [*Regulation of Amusements by Municipalities*] 27-109-1, 27-109-3, 27-109-7, 27-109- 9, [*Regulation of Cruise Vessels by State Tax Commission*] 67-1-71, [*Alcoholic Beverage Permits Issued by State Tax Commission*] 87-1-5, 95-3-25, 97-33-1, 97-33-7, 97-33-9, 97-33-17, 97-33-25, and 97-33-27 [*Regulation of Gaming*]. Any person convicted of a violation of this section shall be punished pursuant to the provisions of Article 3, Chapter 4, Title 25, Mississippi Code of 1972.