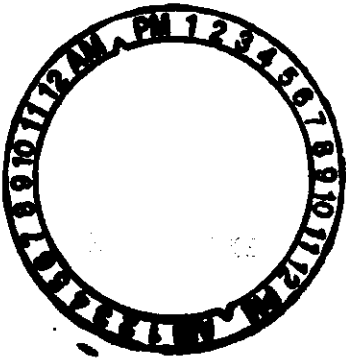


ACT NO. 2012-433

1 HB466  
2 142427-5  
3 By Representative Love  
4 RFD: Ethics and Campaign Finance  
5 First Read: 01-MAR-12



1  
2 ENROLLED, An Act,

3 To amend Section 36-25-1, as last amended by Act  
4 2010-764, 2010 First Special Session, Code of Alabama 1975,  
5 relating to ethics; to define the term "de minimis" as a gift  
6 of less than \$25 and an aggregate value of \$50 or less in a  
7 calendar year from any provider; and to provide that the value  
8 of a de minimis would be adjusted based on the increase in the  
9 consumer price index each four years from the date of the  
10 enactment of this act.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 36-25-1, as last amended by Act  
13 2010-764, 2010 First Special Session, Code of Alabama 1975, is  
14 amended to read as follows:

15 "§36-25-1.

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

18 "(1) BUSINESS. Any corporation, partnership,  
19 proprietorship, firm, enterprise, franchise, association,  
20 organization, self-employed individual, or any other legal  
21 entity.

22 "(2) BUSINESS WITH WHICH THE PERSON IS ASSOCIATED.  
23 Any business of which the person or a member of his or her  
24 family is an officer, owner, partner, board of director

1 member, employee, or holder of more than five percent of the  
2 fair market value of the business.

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

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

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

9 "(6) COMPLAINANT. A person who alleges a violation  
10 or violations of this chapter by filing a complaint against a  
11 respondent.

12 "(7) CONFIDENTIAL INFORMATION. A complaint filed  
13 pursuant to this chapter, together with any statement,  
14 conversations, knowledge of evidence, or information received  
15 from the complainant, witness, or other person related to such  
16 complaint.

17 "(8) CONFLICT OF INTEREST. A conflict on the part of  
18 a public official or public employee between his or her  
19 private interests and the official responsibilities inherent  
20 in an office of public trust. A conflict of interest involves  
21 any action, inaction, or decision by a public official or  
22 public employee in the discharge of his or her official duties  
23 which would materially affect his or her financial interest or  
24 those of his or her family members or any business with which  
25 the person is associated in a manner different from the manner

1 it affects the other members of the class to which he or she  
2 belongs. A conflict of interest shall not include any of the  
3 following:

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

6 "b. An occasional nonpecuniary award publicly  
7 presented by an organization for performance of public  
8 service.

9 "c. Payment of or reimbursement for actual and  
10 necessary expenditures for travel and subsistence for the  
11 personal attendance of a public official or public employee at  
12 a convention or other meeting at which he or she is scheduled  
13 to meaningfully participate in connection with his or her  
14 official duties and for which attendance no reimbursement is  
15 made by the state.

16 "d. Any campaign contribution, including the  
17 purchase of tickets to, or advertisements in journals, for  
18 political or testimonial dinners, if the contribution is  
19 actually used for political purposes and is not given under  
20 circumstances from which it could reasonably be inferred that  
21 the purpose of the contribution is to substantially influence  
22 a public official in the performance of his or her official  
23 duties.

24 "(9) DAY. Calendar day.

1           "(10) DEPENDENT. Any person, regardless of his or  
2 her legal residence or domicile, who receives 50 percent or  
3 more of his or her support from the public official or public  
4 employee or his or her spouse or who resided with the public  
5 official or public employee for more than 180 days during the  
6 reporting period.

7           "(11) DE MINIMIS. A value twenty-five dollars (\$25)  
8 or less per occasion and an aggregate of fifty dollars (\$50)  
9 or less in a calendar year from any single provider, or such  
10 other amounts as may be prescribed by the Ethics Commission  
11 from time to time by rule pursuant to the Administrative  
12 Procedure Act or adjusted each four years from the date of the  
13 enactment of this amendatory act to reflect any increase in  
14 the cost of living as indicated by the United States  
15 Department of Labor Consumer Price Index or any succeeding  
16 equivalent index.

17           "~~(11)~~ (12) ECONOMIC DEVELOPMENT FUNCTION. Any  
18 function reasonably and directly related to the advancement of  
19 a specific, good-faith economic development or trade promotion  
20 project or objective.

21           "~~(12)~~ (13) EDUCATIONAL FUNCTION. A meeting, event, or  
22 activity held within the State of Alabama, or if the function  
23 is predominantly attended by participants from other states,  
24 held within the continental United States, which is organized  
25 around a formal program or agenda of educational or

1 informational speeches, debates, panel discussions, or other  
2 presentations concerning matters within the scope of the  
3 participants' official duties or other matters of public  
4 policy, including social services and community development  
5 policies, economic development or trade, ethics, government  
6 services or programs, or government operations, and which,  
7 taking into account the totality of the program or agenda,  
8 could not reasonably be perceived as a subterfuge for a purely  
9 social, recreational, or entertainment function.

10 "~~(13)~~ (14) FAMILY MEMBER OF THE PUBLIC EMPLOYEE. The  
11 spouse or a dependent of the public employee.

12 "~~(14)~~ (15) FAMILY MEMBER OF THE PUBLIC OFFICIAL. The  
13 spouse, a dependent, an adult child and his or her spouse, a  
14 parent, a spouse's parents, a sibling and his or her spouse,  
15 of the public official.

16 "~~(15)~~ (16) GOVERNMENTAL CORPORATIONS AND AUTHORITIES.  
17 Public or private corporations and authorities, including but  
18 not limited to, hospitals or other health care corporations,  
19 established pursuant to state law by state, county or  
20 municipal governments for the purpose of carrying out a  
21 specific governmental function. Notwithstanding the foregoing,  
22 all employees, including contract employees, of hospitals or  
23 other health care corporations and authorities are exempt from  
24 the provisions of this chapter.

1           "~~(16)~~(17) HOUSEHOLD. The public official, public  
2 employee, and his or her spouse and dependents.

3           "~~(17)~~(18) LAW ENFORCEMENT OFFICER. A full-time  
4 employee of a governmental unit responsible for the prevention  
5 or investigation of crime who is authorized by law to carry  
6 firearms, execute search warrants, and make arrests.

7           "~~(18)~~(19) LEGISLATIVE BODY. The Senate of Alabama,  
8 the House of Representatives of Alabama, a county commission,  
9 city council, city commission, town council, or municipal  
10 council or commission, and any committee or subcommittee  
11 thereof.

12           "~~(19)~~(20) LOBBY or LOBBYING. The practice of  
13 promoting, opposing, or in any manner influencing or  
14 attempting to influence the introduction, defeat, or enactment  
15 of legislation before any legislative body; opposing or in any  
16 manner influencing the executive approval, veto, or amendment  
17 of legislation; or the practice of promoting, opposing, or in  
18 any manner influencing or attempting to influence the  
19 enactment, promulgation, modification, or deletion of  
20 regulations before any regulatory body. The term does not  
21 include providing public testimony before a legislative body  
22 or regulatory body or any committee thereof.

23           "~~(20)~~(21) LOBBYIST.

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

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

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

6           "3. A consultant to the state, county, or municipal  
7 levels of government or their instrumentalities, in any manner  
8 employed to influence legislation or regulation, regardless  
9 whether the consultant is paid in whole or part from state,  
10 county, municipal, or private funds.

11           "4. An employee, a paid consultant, or a member of  
12 the staff of a lobbyist, whether or not he or she is paid, who  
13 regularly communicates with members of a legislative body  
14 regarding pending legislation and other matters while the  
15 legislative body is in session.

16           "b. The term lobbyist does not include any of the  
17 following:

18           "1. An elected official on a matter which involves  
19 that person's official duties.

20           "2. A person or attorney rendering professional  
21 services in drafting bills or in advising clients and in  
22 rendering opinions as to the construction and effect of  
23 proposed or pending legislation, executive action, or rules or  
24 regulations, where those professional services are not



1 otherwise connected with legislative, executive, or regulatory  
2 action.

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

5 "4. Any citizen not lobbying for compensation who  
6 contacts a member of a legislative body, or gives public  
7 testimony on a particular issue or on particular legislation,  
8 or for the purpose of influencing legislation and who is  
9 merely exercising his or her constitutional right to  
10 communicate with members of a legislative body.

11 "5. A person who appears before a legislative body,  
12 a regulatory body, or an executive agency to either sell or  
13 purchase goods or services.

14 "6. A person whose primary duties or  
15 responsibilities do not include lobbying, but who may, from  
16 time to time, organize social events for members of a  
17 legislative body to meet and confer with members of  
18 professional organizations and who may have only irregular  
19 contacts with members of a legislative body when the body is  
20 not in session or when the body is in recess.

21 "7. A person who is a member of a business,  
22 professional, or membership organization by virtue of the  
23 person's contribution to or payment of dues to the  
24 organization even though the organization engages in lobbying  
25 activities.

1           "8. A state governmental agency head or his or her  
2           designee who provides or communicates, or both, information  
3           relating to policy or positions, or both, affecting the  
4           governmental agencies which he or she represents.

5           "~~(21)~~(22) MINOR VIOLATION. Any violation of this  
6           chapter in which the public official or public employee  
7           receives an economic gain in an amount less than two hundred  
8           fifty dollars (\$250) or the governmental entity has an  
9           economic loss of less than two hundred fifty dollars (\$250).

10          "~~(22)~~(23) PERSON. A business, individual,  
11          corporation, partnership, union, association, firm, committee,  
12          club, or other organization or group of persons.

13          "~~(23)~~(24) PRINCIPAL. A person or business which  
14          employs, hires, or otherwise retains a lobbyist. A principal  
15          is not a lobbyist but is not allowed to give a thing of value.

16          "~~(24)~~(25) PROBABLE CAUSE. A finding that the  
17          allegations are more likely than not to have occurred.

18          "~~(25)~~(26) PUBLIC EMPLOYEE. Any person employed at  
19          the 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

1 person employed on a part-time basis whose employment is  
2 limited to providing professional services other than  
3 lobbying, the compensation for which constitutes less than 50  
4 percent of the part-time employee's income.

5 "~~(26)~~ (27) PUBLIC OFFICIAL. Any person elected to  
6 public office, whether or not that person has taken office, by  
7 the vote of the people at state, county, or municipal level of  
8 government or their instrumentalities, including governmental  
9 corporations, and any person appointed to a position at the  
10 state, county, or municipal level of government or their  
11 instrumentalities, including governmental corporations. For  
12 purposes of this chapter, a public official includes the  
13 chairs and vice-chairs or the equivalent offices of each state  
14 political party as defined in Section 17-13-40.

15 "~~(27)~~ (28) 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 "~~(28)~~ (29) REPORTING PERIOD. The reporting official's  
22 or employee's fiscal tax year as it applies to his or her  
23 United States personal income tax return.

1           "~~(29)~~ (30) REPORTING YEAR. The reporting official's  
2 or employee's fiscal tax year as it applies to his or her  
3 United States personal income tax return.

4           "~~(30)~~ (31) RESPONDENT. A person alleged to have  
5 violated a provision of this chapter and against whom a  
6 complaint has been filed with the commission.

7           "~~(31)~~ (32) STATEMENT OF ECONOMIC INTERESTS. A  
8 financial disclosure form made available by the commission  
9 which shall be completed and filed with the commission prior  
10 to April 30 of each year covering the preceding calendar year  
11 by certain public officials and public employees.

12           "~~(32)~~ (33) SUPERVISOR. Any person having authority to  
13 hire, transfer, suspend, lay off, recall, promote, discharge,  
14 assign, or discipline other public employees, or any person  
15 responsible to direct them, or to adjust their grievances, or  
16 to recommend personnel action, if, in connection with the  
17 foregoing, the exercise of the authority is not of a merely  
18 routine or clerical nature but requires the use of independent  
19 judgment.

20           "~~(33)~~ (34) THING OF VALUE.

21           "a. Any gift, benefit, favor, service, gratuity,  
22 tickets or passes to an entertainment, social or sporting  
23 event, unsecured loan, other than those loans and forbearances  
24 made in the ordinary course of business, reward, promise of

1 future employment, or honoraria or other item of monetary  
2 value.

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

6 "1. A contribution reported under Chapter 5 of Title  
7 17 or a contribution to an inaugural or transition committee.

8 "2. Anything given by a family member of the  
9 recipient under circumstances which make it clear that it is  
10 motivated by a family relationship.

11 "3. Anything given by a friend of the recipient  
12 under circumstances which make it clear that it is motivated  
13 by a friendship and not given because of the recipient's  
14 official position. Relevant factors include whether the  
15 friendship preexisted the recipient's status as a public  
16 employee, public official, or candidate and whether gifts have  
17 been previously exchanged between them.

18 "4. Greeting cards, and other items, services with  
19 little intrinsic value which are intended solely for  
20 presentation, such as plaques, certificates, and trophies,  
21 promotional items commonly distributed to the general public,  
22 and items or services of de minimis value.

23 "5. Loans from banks and other financial  
24 institutions on terms generally available to the public.

1           "6. Opportunities and benefits, including favorable  
2 rates and commercial discounts, available to the public or to  
3 a class consisting of all government employees.

4           "7. Rewards and prizes given to competitors in  
5 contests or events, including random drawings, which are open  
6 to the public.

7           "8. Anything that is paid for by a governmental  
8 entity or an entity created by a governmental entity to  
9 support the governmental entity or secured by a governmental  
10 entity under contract, except for tickets to a sporting event  
11 offered by an educational institution to anyone other than  
12 faculty, staff, or administration of the institution.

13           "9. Anything for which the recipient pays full  
14 value.

15           "10. Compensation and other benefits earned from a  
16 non-government employer, vendor, client, prospective employer,  
17 or other business relationship in the ordinary course of  
18 employment or non-governmental business activities under  
19 circumstances which make it clear that the thing is provided  
20 for reasons unrelated to the recipient's public service as a  
21 public official or public employee.

22           "11. Any assistance provided or rendered in  
23 connection with a safety or a health emergency.

24           "12. Payment of or reimbursement for actual and  
25 necessary transportation and lodging expenses, as well as

1 waiver of registration fees and similar costs, to facilitate  
2 the attendance of a public official or public employee, and  
3 the spouse of the public official or public employee, at an  
4 educational function or widely attended event of which the  
5 person is a primary sponsor. This exclusion applies only if  
6 the public official or public employee meaningfully  
7 participates in the event as a speaker or a panel participant,  
8 by presenting information related to his or her agency or  
9 matters pending before his or her agency, or by performing a  
10 ceremonial function appropriate to his or her official  
11 position; or if the public official's or public employee's  
12 attendance at the event is appropriate to the performance of  
13 his or her official duties or representative function.

14 "13. Payment of or reimbursement for actual and  
15 necessary transportation and lodging expenses to facilitate a  
16 public official's or public employee's participation in an  
17 economic development function.

18 "14. Hospitality, meals, and other food and  
19 beverages provided to a public official or public employee,  
20 and the spouse of the public official or public employee, as  
21 an integral part of an educational function, economic  
22 development function, work session, or widely attended event,  
23 such as a luncheon, banquet, or reception hosted by a civic  
24 club, chamber of commerce, charitable or educational  
25 organization, or trade or professional association.

1           "15. Any function or activity pre-certified by the  
2 Director of the Ethics Commission as a function that meets any  
3 of the above criteria.

4           "16. Meals and other food and beverages provided to  
5 a public official or public employee in a setting other than  
6 any of the above functions not to exceed for a lobbyist  
7 twenty-five dollars (\$25) per meal with a limit of one hundred  
8 fifty dollars (\$150) per year; and not to exceed for a  
9 principal fifty dollars (\$50) per meal with a limit of two  
10 hundred fifty dollars (\$250) per year. Notwithstanding the  
11 foregoing, the lobbyist's limits herein shall not count  
12 against the principal's limits and likewise, the principal's  
13 limits shall not count against the lobbyist's limits.

14           "17. Anything either (i) provided by an association  
15 or organization to which the state or, in the case of a local  
16 government official or employee, the local government pays  
17 annual dues as a membership requirement or (ii) provided by an  
18 association or organization to a public official who is a  
19 member of the association or organization and, as a result of  
20 his or her service to the association or organization, is  
21 deemed to be a public official. Further included in this  
22 exception is payment of reasonable compensation by a  
23 professional or local government association or corporation to  
24 a public official who is also an elected officer or director  
25 of the professional or local government association or



1 corporation for services actually provided to the association  
2 or corporation in his or her capacity as an officer or  
3 director.

4 "18. Any benefit received as a discount on  
5 accommodations, when the discount is given to the public  
6 official because the public official is a member of an  
7 organization or association whose entire membership receives  
8 the discount.

9 "c. Nothing in this chapter shall be deemed to  
10 limit, prohibit, or otherwise require the disclosure of gifts  
11 through inheritance received by a public employee or public  
12 official.

13 "~~(34)~~ (35) VALUE. The fair market price of a like  
14 item if purchased by a private citizen. In the case of tickets  
15 to social and sporting events and associated passes, the value  
16 is the face value printed on the ticket.

17 "~~(35)~~ (36) WIDELY ATTENDED EVENT. A gathering,  
18 dinner, reception, or other event of mutual interest to a  
19 number of parties at which it is reasonably expected that more  
20 than 12 individuals will attend and that individuals with a  
21 diversity of views or interest will be present."

22 Section 2. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.

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~~\_\_\_\_\_~~

Speaker of the House of Representatives

*Kay Ivey*

\_\_\_\_\_

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 10-APR-12.

Greg Pappas  
Clerk

14  
15  
16  
17

|        |           |   |
|--------|-----------|---|
| Senate | 26-APR-12 | Amended and Passed  |
| House  | 08-MAY-12 | Passed, as amended<br>by Conference Com-<br>mittee Report |
| Senate | 09-MAY-12 | Passed, as amended<br>by Conference Com-<br>mittee Report |

APPROVED *May 15, 2012*  
TIME *6:30 p.m.*  
*Robert Bentley*  
GOVERNOR

Alabama Secretary Of State

Act Num....: 2012-433  
Bill Num...: H-466

Recv'd 05/16/12 01:20pmSLF

SPONSOR

Love  
SPONSORS

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HOUSE ACTION

C + E

DATE:

31

2012

RD 1 RFD

CACF

REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on Ethics + Campaign Finance was acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be Passed, w/amend(s) \_\_\_\_\_ w/sub \_\_\_\_\_ this 7th day of March, 2012.  
W.D. Cook, Chairperson

DATE:

3-8

2012

RF

RD 2 CAL

DATE:

20

RE-REFERRED

RE-COMMITTED

Committee \_\_\_\_\_

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 466.  
YEAS 84 NAYS 0

GREG PAPPAS, Clerk

SENATE ACTION

DATE:

4-10

2012

RD 1 RFD

C + E

This Bill was referred to the Standing Committee of the Senate on C + E

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amd(s) 1 w/sub \_\_\_\_\_ w/eng sub \_\_\_\_\_ by a vote of \_\_\_\_\_ abstain \_\_\_\_\_ years 16 days of April, 2012 this 16th day of April, 2012.  
Patrick Harris, Chairperson

DATE:

4-17

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RF

PAUL AMBA RD 2 CAL

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 466.  
YEAS 31 NAYS 0

PATRICK HARRIS, Secretary

DATE:

4-26-12

RD 3 at length

PASSED

PASSED AS AMENDED

YEAS 21

NAYS 4

ABE

And was ordered returned forthwith to the House.

PATRICK HARRIS, Secretary

DATE:

20

INDEFINITELY POSTPONED

YEAS

NAYS

DATE:

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RECONSIDERED

YEAS

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ADDITIONAL SIGNATURES OF CO-SPONSORS

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HOUSE ACTION  
(Continued)

HOUSE OF REPRESENTATIVES  
 R. 3 at length and passed  
 Yeas 91 Nays 8 Abs 3  
 Date 4-10-18

GREG PAPPAS, Clerk

SENATE ACTION  
(Continued)

This bill having been referred to the Committee pursuant to Senate Rule 23 is reported to the Senate for assignment to the Committee on \_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Signed (Committee Chairperson) \_\_\_\_\_

Date: \_\_\_\_\_ Referred

Committee \_\_\_\_\_

DATE:

RE-REFERRED  RE-COMMITTED

Committee \_\_\_\_\_

This Bill was referred to the Standing Committee on \_\_\_\_\_ the Senate on \_\_\_\_\_

and was acted upon by such Committee session and is by order of the Committee returned therefrom with a favorable w/amd(s) \_\_\_\_\_ w/sub \_\_\_\_\_ w/eng sub \_\_\_\_\_ by a vote of \_\_\_\_\_

yeas \_\_\_\_\_ nays \_\_\_\_\_ abstain \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_, Chairperson

DATE: \_\_\_\_\_  
RF CAL