1 SB496
2 140124-2
3 By Senator Sanford
4 RFD: Constitution, Campaign Finance, Ethics, and Elections
5 First Read: 10-APR-12
SYNOPSIS: Under existing law, a public official or employee is prohibited from using his or her official position or office for personal gain. This bill would amend the Ethics Law to prohibit an elected official or employee from receiving financial benefits including fees generated in their offices and charged to the public for service.

A BILL TO BE ENTITLED
AN ACT

To amend Section 36-25-5, Code of Alabama 1975, relating to public officials and public employees; to prohibit the receipt of financial benefits other than a salary or an expense allowance.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
Section 1. Section 36-25-5, Code of Alabama 1975, is amended to read as follows:

"§36-25-5.

"(a)(1) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain.

"(2) The financial benefit accruing to a public official or public employee because the individual is a public official or public employee is limited to the salary and benefits paid to the public official or public employee by the entity of which the individual is a public official or public employee and any provision for payment or reimbursement of expenses.

"(3) Notwithstanding any other provision of law, a public official or public employee receiving compensation in the form of a salary paid on a periodic basis by the entity of which the individual is a public official or public employee may not retain for personal use any fee generated in the public office or public employment charged to the public for a
service. Unless specifically otherwise provided by state or local law, any fee generated by a public official or public employee shall be retained by the entity of which the individual is a public official or public employee and used for any lawful purpose of the entity other than payment to the official or employee.

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

"(c) No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy. Provided, however, nothing in this subsection shall be deemed to limit or otherwise prohibit communication between
public officials or public employees and eleemosynary or membership organizations or such organizations communicating with public officials or public employees.

"(d) No person shall solicit a public official or public employee to use or cause to be used equipment, facilities, time, materials, human labor, or other public property for such person's private benefit or business benefit, which would materially affect his or her financial interest, except as otherwise provided by law.

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

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

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