

State of Arkansas

CALL ITEM 2

76th General Assembly

Third Extraordinary Session, 1988

HOUSE BILL 1040

By: Reps. Schexnayder and Gibson

"AN ACT TO AMEND THE ARKANSAS CODE OF 1987, TITLE 21, CHAPTER 8, TO ENACT THE ARKANSAS CODE OF PUBLIC ETHICS; TO AMEND THE ARKANSAS CODE OF 1987, TITLE 19, CHAPTER 11, SECTION 709 TO DELETE LANGUAGE RESTRICTING THE APPEARANCE OF FORMER STATE EMPLOYEES IN MATTERS CONNECTED WITH THEIR FORMER DUTIES; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code of 1987, title 21, chapter 8, is hereby amended to read as follows:

"SUBCHAPTER 1. GENERAL PROVISIONS

21-8-101. This chapter may be referred to and cited as the 'Arkansas Code of Public Ethics.'

21-8-102. As used in this chapter:

(1) 'Agency head' means the chief executive or administrative officer of any governmental body. 'Agency head' shall not include a legislator.

(2) 'Business' means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted.

(3) 'Candidate for public office' means any person who has filed a declaration of candidacy or a petition to appear on the ballot for election as a public official.

(4) 'Confidential government information' means information which has been obtained under governmental authority and which, at the time this section

is applied, the governmental body is prohibited by law from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.

(5) 'County government' means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a county.

(6) 'Family' means an individual's spouse, children of that individual or his or her spouse, brothers, sisters, or parents of the individual or his or her spouse.

(7) (A) 'Gift' means any retainer, payment, entertainment, subscription, advance, services or anything of value, unless consideration of equal or greater value has been given therefor.

(B) The term 'gift' does not include:

(i) Informational material such as books, reports, pamphlets, calendars, or periodicals informing a public servant regarding his or her official duties. Payments for travel or reimbursement for any expenses shall not be deemed 'informational material.'

(ii) The giving or receiving of food, lodging or travel which bears a relationship to the public servant's office and when appearing in an official capacity. If the expenses for food, lodging or travel are paid for by a registered lobbyist, the expenses shall be presumed to bear a relationship to the public servant's office and that he or she was appearing in his or her official capacity.

(iii) Gifts which are not used and which, within thirty (30) days after receipt, are returned to the donor.

(iv) Gifts from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle or first cousin or the spouse of any of these persons, unless the person is acting as an agent or intermediary for any person not covered by this paragraph.

(v) Campaign contributions.

(vi) Any devise or inheritance.

(vii) Anything with a value of less than one hundred dollars (\$100.00).

(8) 'Governmental body' means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establish-

ment of the executive, judicial, or legislative branch of the state, municipality, county, school district, or any political district or subdivision thereof. Governmental body does not mean any drainage district, improvement district or levee district.

(9) 'Immediate family' means an individual's spouse and the children of that individual or his or her spouse under the age of sixteen residing in the individual's household.

(10) 'Income' or 'compensation' means any money or anything of value received, or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof.

(11) 'Legislator' means any person who is a member of the Arkansas General Assembly, a quorum court of any county, or the city council or board of directors of any municipality.

(12) 'Ministerial action' means an action performed in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, the public servant's own judgment as to the propriety of the action being taken.

(13) 'Municipal government' means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a municipality.

(14) 'Person' means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.

(15) 'Public appointee' means an individual who is appointed to a governmental body and does not receive a salary for his or her services. 'Public appointee' shall not include an individual appointed to an elective office.

(16) 'Public employee' means an individual who is employed by a governmental body or who is appointed to serve a governmental body. 'Public employee' shall not include public officials or public appointees.

(17) 'Public official' means a legislator or any other person holding an elective office of any governmental body, whether elected or appointed to the office.

(18) 'Public servant' means all public officials, public employees and public appointees.

(19) 'Retainer' means a consideration or fee paid on a regular and continuing basis to a person for services, whether or not specific services are performed by the person.

(20) 'Salary' means fixed compensation paid regularly for services.

(21) 'State government' means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the State of Arkansas.

(22) 'Termination of public service' means termination of employment with the governmental body which employed the public servant or termination of public service with the governmental body served.

21-8-103. Any person who violates any provision of this chapter shall be deemed guilty of a Class A misdemeanor. The culpable mental state required by this chapter shall be a knowing violation, except where another culpable mental state is specifically provided.

21-8-104. The Prosecuting Attorney of the District wherein an alleged violation occurred, shall have the authority to investigate the alleged violations of this chapter and to use all existing powers granted that office.

21-8-105. Nothing in this chapter shall prohibit a municipality or county from enacting legislation that is stricter than that contained in this chapter.

## SUBCHAPTER 2. ARKANSAS ETHICS COMMISSION

21-8-201. (a) There is established the Arkansas Ethics Commission.

(b) The commission shall be composed of seven (7) members. Three (3) members shall be appointed by the Governor, subject to confirmation by the Senate. Two (2) members shall be appointed by the President Pro Tempore of the Senate of the Arkansas General Assembly and two (2) members shall be appointed by the Speaker of the House of Representatives of the Arkansas General Assembly. At least one member of the commission shall be a member of a racial minority and at least one member shall be female.

(c) No member or employee of the commission shall:

(1) hold or be a candidate for any other public office while a

member or employee;

(2) hold office in any political party or political organization; or

(3) serve as an employee of the United States or as a public employee of any governmental body, other than this commission.

(d) All members and employees of the commission shall be subject to all provisions of this chapter, but shall not therefore be disqualified from serving as members or employees.

(e) (1) Members of the commission shall serve for staggered terms of four (4) years. The terms of the initial members shall be staggered by lot such that two (2) members will serve an initial term of two (2) years, and four (4) members will serve an initial term of four (4) years.

(2) No person shall be appointed to more than one full four (4) year term on the commission.

(f) Any vacancy occurring on the commission shall be filled by the incumbent in the office which made the appointment being vacated. Upon the failure of the public official to make an appointment for a vacancy within sixty (60) days, after receiving notice of the vacancy, the remaining commissioners shall fill the vacancy by majority vote. A person appointed to fill a vacancy occurring other than by expiration of a term of office shall be appointed for the unexpired term of the member he or she succeeds, and shall be eligible for appointment to one full four (4) year term.

(g) A member of the commission may be removed by the Governor upon a finding of substantial neglect of duty, inability to discharge the powers and duties of office, gross misconduct, or conviction of a felony.

(h) Members of the commission shall not be compensated but shall receive reimbursement for their actual and necessary expenses.

21-8-202. When any member of the commission is disqualified for any reason to hear and participate in the determination of any matter pending before the commission, the incumbent in the office which made the appointment of the Commission member who is disqualified shall appoint a qualified person to hear and participate in the decision on the particular matter. The special commissioner so appointed shall have all authority and responsibility with respect to the particular matter before the commission as if the person were a regular member of the commission, but shall have no authority or responsibility with respect to any other matter before the commission.

21-8-203. (a) The commission shall elect a chairman and vice chairman; in the absence of the chairman or in the event of a vacancy in that position, the vice chairman shall serve as chairman.

(b) Any action by the commission shall require the affirmative vote of four of its members, and four members shall constitute a quorum.

(c) The chairman or any four members of the commission may call a meeting, provided that adequate advance notice of the meeting is given.

(d) The commission shall have the authority to appoint an executive director and such additional personnel as it requires to perform its duties. The executive director shall serve at the pleasure of the commission.

(e) Except as otherwise provided in this chapter, the proceedings of the commission shall be subject to the Administrative Procedure Act.

21-8-204. (a) The commission shall:

(1) Prescribe and publish, pursuant to the Administrative Procedure Act, rules and regulations to carry out the provisions of this chapter;

(2) Prescribe forms for statements required by this chapter;

(3) Prepare and publish a manual or guidelines setting forth recommended uniform methods of reporting for use by persons required to file under this chapter;

(4) Adopt criteria for the filing of reports and forms with city clerks, recorders, county clerks and the Secretary of State;

(5) Prepare an annual report to the Legislature, the Governor and the public summarizing the activities of the commission and recommending any changes in the chapter;

(6) Initiate and conduct programs for the purpose of educating candidates, public servants, and citizens on matters of ethics in governmental service.

(b) The commission may:

(1) Prepare and publish reports as it may deem appropriate;

(2) Audit statements and reports under this chapter;

(3) On its own initiative or upon request, issue and publish advisory opinions on the requirements of this chapter for those who wish to use the opinion to guide their own conduct.

(4) Request the assistance of the Attorney General, the Department

of Finance and Administration and any other agency of state government in the conduct of any investigation or proceeding in which particular resources or personnel of an agency may be needed; and

(5) Grant an agency head an exception to allow the agency head to employ a member of his or her family if the commission determines the exception to be in the public interest.

21-8-205. Any citizen wishing to file a complaint against a person covered by this chapter may file a complaint with the commission. The commission shall make a public finding, take public action or announce the reason for the need for additional time for the commission to conclude the investigation within ninety (90) days after the complaint is filed.

21-8-206. (a) Upon a complaint stating facts constituting an alleged violation signed under penalty of perjury by any person, the commission shall investigate any alleged violation of this chapter. The executive director shall immediately notify any person under investigation by the commission of the investigation and of the nature of the alleged violation and shall provide information to the person under investigation concerning action taken by the commission together with the reasons for the action or non-action. The commission shall also advise the complainant of the final action taken by the commission together with the reasons for the action or non-action.

(b) If after the investigation, the commission finds that probable cause exists for a finding of a violation of this chapter, the accused may request a hearing on the matter. The hearing shall be a public hearing.

(c) The commission shall have the power to compel the attendance of witnesses and to issue subpoenas in its investigation of any complaint filed with the commission.

(d) Any person whose activities are under investigation shall be entitled to be represented by counsel of his or her own choosing and shall have an opportunity to examine all records to be used at the hearing.

(e) The commission shall keep a record of its investigations, inquiries, and proceedings. All proceedings, records and transcripts of any investigations or inquiries shall be kept confidential until the commission makes a finding or takes public action, unless the alleged violator desires disclo-

sure prior to public action.

(f) If the commission finds a violation of this chapter, then the commission may do any one or more of the following:

- (1) issue a letter of caution or warning;
- (2) issue a public reprimand or censure; or
- (3) report the commission's finding, along with such information and documents as it deems appropriate, and make recommendations to the proper law enforcement authorities.

21-8-207. The powers granted to the commission pursuant to this chapter shall be supplemental to, and concurrent with, powers given to the prosecuting authorities and the courts.

### SUBCHAPTER 3. STATEMENT OF FINANCIAL INTEREST

21-8-301. (a) The following persons shall file a written statement of financial interest:

- (1) All public officials as defined in this chapter.
- (2) All candidates for public office.
- (3) All municipal judges or city attorneys, whether elected or appointed.
- (4) All deputy prosecuting attorneys.
- (5) All public employees and public appointees who are responsible for taking official action of a governmental body, other than ministerial action, with regard to:

- (A) contracting or procurement;
- (B) administering or monitoring grants or subsidies;
- (C) planning or zoning;
- (D) inspecting, licensing, regulating, or auditing any person;
- (E) hiring or firing of public employees; or
- (F) receiving or disbursing State or federal funds.

21-8-302. (a) On or before January 31 of each year all persons required to file the statement of financial interest shall file the written statement required in this subchapter as follows:

- (1) State or district public servants required to file shall file

with the Secretary of State;

(2) County, township, or school district public servants required to file shall file with the County Clerks;

(3) Municipal public servants required to file shall file with the City Clerk or Recorder, as the case may be; and

(4) All municipal judges or city attorneys, whether elected or appointed, shall file with the City Clerk of the municipality within which they serve.

(b) Any candidate for public office shall not be required to file the information on or before January 31 of each year, but shall file the information within thirty (30) days after the deadline for filing for office for which he or she seeks election. Any incumbent officeholder who filed the information on or before January 31 of the year in which an election shall be held, shall not be required to file an additional statement upon becoming a candidate for re-election or election to another office at any election held during the year.

21-8-303. Except for public appointees covered by Section 21-8-304 the statement filed by public servants shall include the following:

(1) The name of the public servant and each member of his or her immediate family and all names under which they do business.

(2) Identification of each employer and of each other source of income amounting to more than one thousand dollars (\$1,000.00) annually received by the person and his or her immediate family in their own names, or by any other person for the use or benefit of the public servant or his or her immediate family and a brief description of the nature of the services for which the compensation was received, except that this paragraph shall not be construed to require the disclosure of individual items of income that constitute a portion of the gross income of the business or profession from which the public servant or his or her immediate family derives income; and in addition thereto, shall identify each source of income as described above of more than twelve thousand five hundred dollars (\$12,500.00), except that this shall not be construed to require the disclosure of individual items of income that constitute a portion of the gross income of the business or profession from which the public servant or his or her immediate family derives income.

(3) The name of every business in which the public servant and his or her

immediate family, or any other person for the use or benefit of the public servant or his or her immediate family, have an investment or holdings of over one thousand dollars (\$1,000.00) at fair market value as of the date of the statement, and in addition thereto, shall identify each source as described above which has a fair market value of over twelve thousand five hundred dollars (\$12,500.00) on the date of the statement; except this provision shall not include deposits or accounts in financial institutions.

(4) Every office or directorship held by the public servant or his or her spouse, in any business, corporation, firm, or enterprise subject to jurisdiction of a regulatory agency of this State, or of any of its political subdivisions.

(5) The name and address of each creditor to whom the value of five thousand dollars (\$5,000.00) or more was personally owed or personally obligated and is still outstanding. Loans made in the ordinary course of business by either a financial institution or a person who regularly and customarily extends credit shall not be required to be disclosed. Debts owed to the members of the public servant's family need not be included.

(6) The name and address of each guarantor or co-maker, other than a member of the public servant's immediate family, who has guaranteed a debt of the public servant that is still outstanding. This requirement shall be applicable only to debt guaranties for debts assumed or arising after January 1, 1989. Guaranteed debts existing on January 1, 1989 which are extended or refinanced shall become subject to disclosure in the annual financing statement due to be filed after the conclusion of the year in which such extension or renegotiation occurred.

(7) The source and date of each gift of more than one hundred dollars (\$100.00) received by the public servant or his or her spouse or children under age sixteen (16) in their own names during the preceding twelve (12) months, or by any other person for the use or benefit of the public servant or his or her spouse or children under age sixteen (16). A candidate for public office other than an incumbent officeholder shall be subject to the gift disclosure provisions of this subsection.

(8) Each non-governmental source of payment of the public servant's expenses for food, lodging, or travel which bears a relationship to the public servant's office when the public servant is appearing in his or her official capacity when the expenses incurred exceed one hundred fifty dollars

(\$150.00). The public servant shall identify the name, nature and business address of the person or organization paying the public servant's expenses and the date and amount of that expenditure if not compensated by the entity for which the public servant serves. If the expenses for food, lodging, or travel are paid for by a registered lobbyist under this chapter, the expenses shall be presumed to bear a relationship to the public servant's office and that he or she was appearing in an official capacity.

(9) Any legislator who is employed by any business which is under direct regulation or subject to direct control by the governmental body which he serves shall set out such employment and the fact that the business is regulated by or subject to control of the governmental body on the statement of financial interest.

(10) If a public servant or any business in which he or she or any member of his or her immediate family is an officer, director, stockholder owning more than ten percent (10%) of the stock of the company, owner, trustee, or partner shall sell any goods or services having a total annual value in excess of one thousand dollars (\$1,000.00) to the governmental body in which the public servant serves or is employed, then the public servant shall set out in detail the goods or services sold, the governmental body to which they were sold, and the compensation paid for each category of goods or services sold.

21-8-304. The statement filed by public appointees other than public appointees of state government shall include the following:

(1) The name and address of any corporation, firm, or enterprise in which the person has a direct financial interest of a value in excess of one thousand dollars (\$1,000). Policies of insurance issued to himself or his spouse are not to be considered a financial interest.

(2) A list of every office or directorship held by himself or his spouse, in any corporation, firm, or enterprise subject to jurisdiction of a regulatory agency of this state or any of its political subdivisions;

(3) A list showing the name and address of any person, corporation, firm, or enterprise from which the person received compensation in excess of one thousand five hundred dollars (\$1,500) during the preceding year;

(4) A list showing the name and address of any person, corporation, firm, or enterprise from which the persons received compensation in excess of twelve thousand five hundred dollars (\$12,500) during the preceding year; and

(5) A list showing the name of each regulatory agency before which the person has appeared in a compensated capacity during the preceding twelve-month period as an attorney, accountant, or otherwise, and the name of the person, partnership, corporation, or association of which he is a member, partner, or employee.

21-8-305. Any legislator who shall acquire any financial interest, including, but not limited to, interest in a business, real property, or in a contractual relationship, when he or she believes or has reason to believe that it will or may be directly affected by his or her official action as a legislator, shall set out the financial interest involved on a statement to be filed with the legislator's statement of financial interest.

21-8-306. Forms used by persons in filing statements as required in this subchapter shall provide for the signature of the person, under penalty of perjury, or false swearing with respect to the truth and accuracy of the statements made on the form.

21-8-307. (a) The official with whom the statements are required to be filed pursuant to this subchapter shall retain all such written statements in a file as a public record which shall be open to public inspection during all office hours. Such statements shall be retained as a public record for five (5) years after which time the statements shall be destroyed.

(b) Within ten (10) days after January 31 of each year, the Secretary of State, each county clerk, and each city clerk or recorder, shall prepare a list of the names of all public servants who have not filed a statement with their respective office in accordance with the provisions of this subchapter, including the names of persons who have filed the statements which have not been signed or are not filed in complete form, and shall forthwith mail a notice to each person who shall have failed to file the statement, or who filed an incomplete or unsigned statement, by ordinary mail, addressed to the last known address of the person, which notice shall be substantially as follows:

'Notice is hereby given that you have failed to file with the undersigned a statement of information required to be filed with this office under the provisions of Arkansas Code of 1987 § 21-8-301 et seq. (or that you have filed

a statement which is incomplete or unsigned). You are further notified that according to law, unless you file the statement required by Arkansas Code of 1987 § 21-8-301 et seq., with this office within ten (10) days from the date of this notice, it is the duty of the undersigned to file a report with the Prosecuting Attorney listing the names of all persons who are required to file a statement with this office under Arkansas Code of 1987 § 21-8-301 et seq., and who have failed to comply therewith.

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Secretary of State/County Clerk/  
or City Clerk or Recorder as it may be

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(DATE) '

21-8-308. It shall be a violation of this chapter for any person to knowingly or purposely fail to file any report required by this subchapter or to file an incomplete or inaccurate report.

#### SUBCHAPTER 4. CONFLICT OF INTEREST, PROHIBITED ACTS

21-8-401. No public servant shall:

(1) Receive a gift or compensation as defined in this chapter, other than income and benefits from the governmental body to which he or she is duly entitled, for the performance or nonperformance of the duties and responsibilities of his or her office or position.

(2) Use or attempt to use his or her official position to secure anything of material value or benefit for himself or herself or the public servant's family that would not ordinarily accrue to him or her in the performance of his or her official duties, which thing of value or benefit is of such character as to manifest an improper influence upon him with respect to his or her duties.

(3) Purposely and knowingly use or disclose to any other person or entity confidential government information acquired by him or her in the course of and by reason of the public servant's official duties, to secure anything of material value or benefit for himself or herself or his or her family.

21-8-402. (a) A former public servant shall not represent a private

client in connection with a matter in which the former public servant participated personally and substantially as a public servant, unless the governmental body for which he or she served consents after consultation. No person with which the former public servant is associated may knowingly undertake or continue representation in such a matter unless:

(1) The disqualified former public servant is screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) Written notice is promptly given to the governmental body that the former public servant served, to enable it to ascertain compliance with the provisions of this section.

(b) Except as law may otherwise expressly permit, a former public servant having information that the former public servant knows is confidential government information about a person acquired when the former public servant was a public servant, shall not represent a private client whose interests are adverse to that person in any matter in which the information could be used to the material disadvantage of that person. A person with which the former public servant is associated may undertake or continue representation in the matter only if the disqualified former public servant is screened from any participation in the matter and is apportioned no part of the fee therefrom.

(c) A public servant shall not:

(1) Participate in a matter in which he or she participated personally and substantially while in private practice or non-governmental employment, unless under applicable law no one is, or by lawful delegation may be, authorized to act in the public servant's stead in the matter; or

(2) Negotiate for private employment with any person who is involved as a party or as an attorney for a party in a matter in which the public servant is participating personally and substantially.

(d) As used in this section, the term 'matter' includes:

(1) Any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties; and

(2) Any other matter covered by the Conflict of Interest Rules of the appropriate governmental body.

21-8-403. (a) No public servant, other than a legislator, shall seek

employment with a business directly regulated or subject to direct control by a governmental body which he or she serves unless prior written notice of the intent to seek employment with a specific employer is given to the supervisor of the public servant.

(b) The term 'employment' within the meaning of this section includes professional services and other services by the public servant whether rendered as an employee or as an independent contractor.

21-8-404. A public servant, other than a member of the General Assembly, whose duties would include the taking of an action or the making of a decision that may cause financial benefit or detriment to him, to a member of the public servant's family or a business in which he or she is an officer, director, stockholder owning more than 10% of the stock of the company, owner, trustee, partner or employee, which is distinguishable from the effects of the action from the public generally or a broad segment of the public, shall:

(1) Prepare a written statement describing the matter requiring the action or decision and stating the potential conflict; and

(2) Deliver a copy of the statement to the Secretary of State, county clerk, city clerk, or recorder to be filed with the person's statement of financial interest and to his or her immediate superior, if any. The public servant shall remove himself from actions and decisions on the matter. This restriction shall not prevent the public servant from making or participating in the making of a governmental decision to the extent that the individual's participation is legally required for the action or decision to be made, but the person shall report the occurrence to the same agency where the person's statement of financial interest was filed.

(3) The obligation to report a potential conflict of interest under this section arises as soon as the public servant is aware of the conflict. If the public servant has filed a statement of financial interest that makes the conflict readily apparent, then no report need be filed.

21-8-405. A member of the General Assembly who is required to take an action in the discharge of his official duties that may affect his financial interest or cause financial benefit or detriment to him, or a business in which he or she is an officer, director, stockholder owning more than 10% of

the stock of the company, owner, trustee, partner or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the public shall:

(1) Prepare a written statement describing the matter requiring action and stating the potential conflict.

(2) Deliver a copy of the statement to the Secretary of State to be filed with statement of financial interest. He may abstain from voting on the issue; however, nothing in this section shall be construed to prohibit any member of the General Assembly from voting on any matter that comes before his house of the General Assembly.

(3) The obligation to report a potential conflict of interest under this section arises as soon as the member of the General Assembly is aware of the conflict. If the statement of financial interest filed by the member of the General Assembly makes the conflict readily apparent, then no report need be filed.

21-8-406. (a) No legislator nor any entity in which he or she is an officer, director, stockholder owning more than 10% of the stock of the company, owner, trustee, partner, or employee shall appear for compensation on behalf of another person, firm, corporation or entity before:

(1) Any entity of state government if the legislator is a member of the General Assembly;

(2) Any entity of the legislator's county government if the legislator is a member of a quorum court; or

(3) Any entity of the legislator's municipal government if the legislator is a member of a city council or board of directors of a municipality.

(b) This section shall not:

(1) Apply to any judicial proceeding or to any hearing or proceeding which is adversarial in nature or character;

(2) Apply to any hearing or proceeding on which a record is made by the entity of State government, county government or municipal government;

(3) Apply to an appearance which is a matter of public record;

(4) Apply to ministerial actions; or

(5) Preclude a legislator from acting on behalf of a constituent to determine the status of a matter without accepting compensation.

(c) An appearance which is a matter of public record as provided in (b) (3) of this section may be made by filing a written statement within twenty-four hours with the agency head of the entity of state government, county government, or municipal government before which an appearance is sought. The statement should identify the client on behalf of whom the appearance is made and contain a general statement of the action sought from the government entity. In the event that a written statement cannot be provided to the agency head prior to the meeting, telephonic notice must be given to the agency head or his office. Such statements shall be retained by the agency head of each entity of state government, county government, or municipal government and shall be a matter of public record.

21-8-407. No person shall offer or give to a public servant or a member of the public servant's family, directly or indirectly, any gift if the person:

(1) Has or is seeking to obtain contractual or other business or financial relationships with the public servant's governmental body.

(2) Is seeking or could be reasonably expected to influence the passage or defeat of legislation by the legislative branch of any governmental body or the passage or defeat of any proposed rule or regulation of the public servant's governmental body.

(3) Is seeking or could be reasonably expected to influence the public servant's official vote, action, or judgment or could reasonably be considered as a reward for an official action or inaction on the part of the public servant.

21-8-408. No member of an agency head's family shall be employed by the governmental body of the agency head; except that:

(1) Any person employed by a governmental body on January 1, 1989, and whose employment is in violation of the above provision may continue in the employment, and this provision shall not be construed to hinder, alter, or in any way affect normal promotional advancement in the employment of the employee.

(2) If a member of the public employee's family becomes the agency head of the public employee's governmental body and the public employee has been employed in the governmental body, then this section shall not prohibit the

continued employment of the public employee nor shall it be construed to hinder, alter, or in any way affect normal promotional advancement for the public employee.

(3) If the agency head of a governmental body wishes to employ a member of his or her family, the agency head may apply to the Arkansas Ethics Commission for an exemption, stating in writing under oath why an exemption should be granted. If the Arkansas Ethics Commission shall find it is in the public interest for an exemption to be granted, it may do so, and the employment covered by an exemption shall not be a violation of the provisions of this chapter."

SECTION 2. The Arkansas Code of 1987, title 19, chapter 11, section 709, is hereby amended to read as follows:

"19-11-709. (a) Contemporaneous Employment Prohibited. It shall be a breach of ethical standards for any employee who is involved in procurement to become or be, while such an employee, the employee of any party contracting with the state agency by which the employee is employed.

(b) Disqualification of Partners of a State Employee. It shall be a breach of ethical standards for a person who is a partner of an employee knowingly to act as a principal or as an agent for anyone other than the state in connection with any:

(A) Judicial or other proceeding, application, request for a ruling, or other determination;

(B) Contract;

(C) Claim; or

(D) Charge or controversy in which the employee either participates personally and substantially through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of the employee's official responsibility, where the state is a party or has a direct and substantial interest.

(c) (1) Selling to State After Termination of Employment is Prohibited. It shall be a breach of ethical standards for any former employee, unless the former employee's last annual salary did not exceed ten thousand five hundred dollars (\$10,500.00), to engage in selling or attempting to sell commodities or services to the state for one (1) year following the date employment ceased.

(2) The term 'sell' as used in this subsection means signing a bid, proposal, or contract; negotiating a contract; contacting any employee for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowances, or other terms of a contract; settling disputes concerning performance of a contract; or any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person.

(d) (1) This section is not intended to preclude a former employee from accepting employment with private industry solely because his employer is a contractor with this state.

(2) This section is not intended to preclude an employee, a former employee, or a partner of an employee or former employee from filing an action as a taxpayer for alleged violations of this subchapter."

### SECTION 3. MISCELLANEOUS AND NON-CODIFIED PROVISIONS

(a) (1) Sections 21-8-201 through 21-8-204 of the Arkansas Code of 1987, Act 849 of 1977 (Arkansas Statutes 12-1628 through 12-1632) relating to income disclosure are hereby repealed.

(2) Sections 21-8-301 through 21-8-309 of the Arkansas Code of 1987, the same being Act 570 of 1979 (Arkansas Statutes 12-3001 through 12-3007), relating to a code of ethics are hereby repealed.

(b) This act shall be supplemental to all other laws pertaining to ethics, conflicts of interest and nepotism, and shall not repeal any other laws, except for laws specifically repealed by this act.

(c) The provisions of this act, other than Sections 21-8-201 through 21-8-204 of Section 1, shall become effective on January 1, 1989. Sections 21-8-201 through 21-8-204 of Section 1 shall become effective on May 1, 1988.

