

Report on the

**Alabama Historical Commission  
State of Alabama  
Montgomery, Alabama**

**October 1, 2001 through September 30, 2004**

Filed: March 18, 2005



**Department of  
Examiners of Public Accounts**

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*Ronald L. Jones, Chief Examiner*

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**Report to the Chief Examiner**

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Ronald L. Jones  
Chief Examiner

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Honorable Ronald L. Jones  
Chief Examiner of Public Accounts  
Montgomery, Alabama 36130

Dear Sir:

Under the authority of the *Code of Alabama 1975*, Section 41-5-14, we submit this report on the Alabama Historical Commission, State of Alabama, for the period October 1, 2001 through September 30, 2004.

**SCOPE AND OBJECTIVES**

This report encompasses the results of an examination of the Alabama Historical Commission (the "Commission"). The objective of the examination was to determine whether the Commission was in compliance with applicable laws and regulations of the State of Alabama.

**CONTENTS OF REPORT**

This report includes the following segments:

1. **Report to the Chief Examiner** – contains items pertaining to the function or purpose of the Commission operations, state legal compliance, and other matters.
2. **Additional Information** – contains information pertaining to the Commission Members (Exhibit 1).

## **OVERALL RESULTS OF EXAMINATION**

Significant items noted during our examination are listed in summary form in this section. Details of these items are further discussed in the *Findings and Recommendations* section of this report.

The Commission allowed Executive Director Lee Warner to resign on August 20, 2004, effective January 7, 2005. It appears that his resignation was in lieu of termination of his employment by the Commission. Mr. Warner was allowed to receive his full salary during the period between August 20, 2004 and January 7, 2005, although he was not allowed to work at the Commission's office in Montgomery. Under Mr. Warner's direction, several other questionable personnel actions and related expenditures occurred.

The Commission's accounting records remained out of balance with the State Comptroller and State Treasurer. This was reported in previous examinations, and we recommended that the Commission's accountants reconcile the accounting records to those of the State Treasurer and State Comptroller. The Commission's accountants attempted to reconcile the records and were unable to do so; therefore, at the request of the Commission accountants and the State Treasurer, we performed a complete reconciliation of the Commission's accounting records for the past ten years. As of September 30, 2004, the Commission owed the State Treasury \$1,759,503.59, which represents money deposited in separate bank accounts that should have been transferred to the Historic Preservation Investment Fund #785 in the State Treasury to cover disbursements made by the Commission.

We visited three historic sites maintained by the Commission, including the Teague House where the Commission's offices are located, the Pond Spring site in North Alabama (Wheeler home), and the Fort Morgan site. The sites we visited were in need of numerous repairs and restoration work. The Pond Spring site is closed because of its condition of disrepair and deterioration. Hurricane Ivan resulted in damage to several Commission historical sites and assets that have not yet been repaired, including destruction of the ferry dock and landing at Fort Morgan.

On November 1, 2001, three Commission members established the Alabama Historical Commission Foundation, Inc. as a separate non-profit organization to provide financial and program support to the Commission. Instead, the Foundation has received financial and program support from the Commission and has not provided any substantial benefits or support to the Commission. The Foundation received donated and other public funds that normally would have been received by the Commission and deposited into the State Treasury.

Although Hurricane Ivan destroyed the ferry dock and landing, and although a private ferry has operated between Fort Morgan and Fort Gaines for years, providing guaranteed income of \$30,000 per year or more to the Commission under a concession contract, the Commission is in the process of purchasing a second ferry to be owned and operated by the Commission. The Commission is planning to spend more than \$3 million to restore the ferry landing and purchase a ferryboat. Acquisition and operation of a ferryboat does not appear to be a historic preservation activity consistent with the statutory mission of the Commission.

## **BACKGROUND INFORMATION**

### **General Information**

The Alabama Historical Commission operates under the provisions of the *Code of Alabama 1975*, Sections 41-9-240 through 41-9-262, as amended for the preservation of buildings and sites with historical, archaeological, or architectural significance. The Commission consists of twenty members, of which seven are ex officio. These officials include the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, the Director of the Department of Archives and History, the Director of the State Bureau of Tourism and Travel, the Commissioner of Conservation and Natural Resources, and the Director of the technical staff of the Alabama Building Commission. The other thirteen members are appointed by the Governor, and represent state universities, the Alabama Council of the American Institute of Architects, the Alabama Historical Association, the Alabama State Chamber of Commerce, the Alabama Farmers Federation, the Alabama Archaeological Society, and the state at-large. These members are appointed based on a demonstrated interest in and concern about the preservation of Alabama history. In addition to the twenty members, the Chairman of the Restructured Historic Chattahoochee Commission serves as an ex officio policy making member of the Commission. Commission members serve six-year terms. The Commission has 109 employees hired through the State Merit System and is authorized by the *Code* to have three non-merit employees. These include the Executive Director, State Archaeologist, and Special Projects Coordinator.

The Commission's headquarters are at the historic Teague and Rice/Semple Haardt Houses located at 468 South Perry Street in Montgomery. Additional historical properties administered by the Commission include Belle Mont, Bottle Creek Mounds, Cahawba Park, John Tyler Morgan House, Confederate Memorial Park and Cemetery, Fendall Hall, Dr. Francis Medical Museum, Gaineswood, Magnolia Grove, Pond Springs, Truss-Watson House, Tardy Cottage, Fort Mims, Fort Morgan, and Fort Toulouse. The Commission also owns the Victor Tulane Building and South Perry Street Apartments.

The Commission operates from two special revenue funds, the “Alabama State Historic Preservation Fund” (Fund #365), established in the State Treasury by the *Code of Alabama 1975*, Section 41-9-255, and the “Alabama Historic Preservation Investment Fund” (Fund #785) authorized by the *Code of Alabama 1975*, Section 41-9-249(7c). The “Alabama Cultural Resources Preservation Trust” was created in 1992 for the purpose of implementing the settlement of the Transco litigation. The Employees’ Retirement System of Alabama acts as the investment adviser and custodian of this fund for the Commission. Interest income earned by the “Alabama Cultural Resources Preservation Trust” for the 2001-2002, 2002-2003 and 2003-2004 fiscal years were \$673,249.24, 338,264.21, and \$186,738.11, respectively. Periodically, the interest earned in this fund is transferred to Fund #365 to be expended in accordance with the Transco litigation settlement.

The Commission’s expenditures during the period are shown in the table below.

<b>Alabama State Historic Preservation Fund (365) Expenditures</b>			
<b>October 1, 2001 through September 30, 2004</b>			
	2004	2003	2002
Personnel Costs	\$ 3,719,996.42	\$ 3,651,124.64	\$ 3,274,230.79
Employee Benefit	1,129,076.93	1,078,524.27	935,665.19
Travel, In-State	29,535.75	78,938.78	79,787.80
Travel, Out-of-State	16,664.05	43,239.29	46,274.18
Repair and Maintenance	77,963.27	185,956.84	120,820.01
Rentals and Leases	26,034.87	46,209.05	35,866.40
Utilities and Communication	357,456.39	390,989.10	393,824.85
Professional Services	468,757.20	673,032.00	745,080.91
Supplies, Materials, and Operating	380,464.32	488,913.52	454,442.15
Transportation Equipment Operation	39,681.62	42,572.82	35,224.72
Grants and Benefits	283,887.42	996,738.02	1,176,258.84
Capital Outlay	417,516.25	800,545.47	2,487,429.50
Transportation Equipment Purchase	-	12,597.40	30,705.93
Other Equipment Purchases	33,427.76	76,152.52	111,000.30
Miscellaneous	(1,079,664.00)	(2,490,000.00)	(3,320,000.00)
<b>Total Expenditures</b>	<b>\$ 5,900,798.25</b>	<b>\$ 6,075,533.72</b>	<b>\$ 6,606,611.57</b>

The financial statements of the Commission are included in the State of Alabama Comprehensive Annual Financial Report prepared annually by the State Comptroller.

We compared a sample of nonconsumable personal property in the custody of the Alabama Historical Commission with the property records maintained by the Property Inventory Control Division of the State Auditor's Office. The term "nonconsumable personal property" as used herein consists primarily of office furniture and equipment, vehicles, and other items necessary for the operations of the agency and does not include historical items in the custody of the Commission. There were no discrepancies noted during the comparison. The Property Inventory Control Division of the State Auditor's Office performed a physical inventory during the 2003-2004 fiscal year of the Commission's property valued at \$500 or more and reported that all items were located. The property total at September 30, 2004 was \$2,579,487.72 of which \$279,871 is attributable to 22 vehicles. Of the vehicle total, there are three Chevrolet Tahoe Sport Utility Vehicles with a cost of \$74,033, which are used by employees working in the main offices in Montgomery with the remaining \$205,838 being attributed to 19 other vehicles.

### **Overview of Historical Sites**

The Alabama Historical Commission owns and maintains 21 historic sites throughout the State of Alabama. A consultant, Economics Research Associates, was paid more than \$350,000 to assess and rank 17 of the 21 properties. The consultant prepared an *Economics Research Associates (ERA) Phase 1 Report: Opportunities Analysis for AHC Properties; Analysis of Programs in Other States* issued to the Commission in 2001. This ranking/prioritization of the properties currently serves as the basis to determine which properties should have priority when the Commission allocates available resources for preservation. Among the factors considered by the consultant were the properties' business potential and interpretive potential. The business potential included factors related to the potential for increased tourism, uses for other purposes, income potential, and potential for private or non-profit funding and support. The interpretive potential addressed the properties' potential for preserving and interpreting the unique cultural and historical resources of the State.

Priority 1 properties were those properties that scored high in both the business potential and interpretive potential categories. Priority 2 properties were those that had a moderate business potential and high interpretative potential. Priority 3 properties were those that scored low or had a moderate business potential and low interpretative potential. In the ERA report the consultants' recommendations regarding ownership, management, and interpretation of the properties reflect the level of priority. According to the report for Priority 1 properties, the Commission should retain ownership and responsibility for management and operation; the property should be considered for priority resource investment. For priority 2 properties, the Commission should retain ownership and responsibility for management and operation; investment should be made as resources become available. For Priority 3 properties the Commission should retain ownership of the property, but should seek partners for operation, interpretation and/or other activities. Alternatively, the Commission should seek to transfer the property to an appropriate organization.

An overview of the Commission properties, and the Economics Research Associates' ranking of these properties are included in the following paragraphs.

### **Alabama State Capitol**

The Alabama State Capitol, constructed in 1851 and restored in 1992, is a National Historic Landmark in downtown Montgomery and is in active status as a state government office building. The Commission has 15 permanent staff members located at the Capitol. Four additional staff members are employed in the Goat Hill Museum gift shop. The Capitol building is a priority 1 property according to the ERA report prepared for the Alabama Historical Commission.

### **Belle Mont**

The Belle Mont home, circa 1830, and outbuildings are located on approximately 35 surrounding acres in Colbert County. With limited hours of operation and one staff member who is also the site director at Pond Spring, annual visitation remains less than 500. As one of the state's first great plantation houses, it is also Alabama's finest example of Jeffersonian Palladian architecture. This is considered a priority 2 property.

### **Bottle Creek**

Bottle Creek is a relatively inaccessible site located in Baldwin County. It is a historically significant site encompassing 157 acres and an assortment of Native American mounds and artifacts. Visitation to the undeveloped site is discouraged, and no regular staff work on site, though it is patrolled by a Biologist/Wild Life Officer employed with the Alabama Department of Conservation and Natural Resources (DCNR) for the purposes of security. The Commission pays a portion of this employee's salary. This property is considered a priority 3 property.

### **Confederate Memorial Park**

Confederate Memorial Park encompasses 102 acres and is both a historic site as well as a venue for public and recreational activities in Chilton County. It is the site of the state's only Home for Confederate Veterans (1902-1939), and while this home and its support buildings are no longer present, the park does include a historic archaeological component at the building sites, as well as a cemetery and museum. Construction on a new museum and visitors center is underway. The Commission has five permanent staff located at the facility, which is toured or used by approximately 40,000 visitors annually. This is considered a priority 3 property.

### **Dr. Francis Medical and Pharmaceutical Museum**

The Dr. Francis Medical and Pharmaceutical Museum is located in a commercial parking area in Jacksonville, Alabama. It has been relocated from its original site. While the museum is not permanently staffed, a volunteer affiliated with the Jacksonville Heritage Association oversees the opening of the museum each Saturday. Annual visitation is still extremely low. This is considered a priority 3 property.

### **Fendall Hall**

The Fendall Hall property includes a circa-1860 house located on approximately 4 ½ acres. Its hand-painted murals inside are nationally recognized as being among the finest in the nation. The site, located in Barbour County, receives less than 4,000 visitors annually, and two permanent staff members are located at the site. Volunteers give tours three days a week. This is considered a priority 3 property.

### **Fort Mims**

Fort Mims is maintained as a park with a picnic pavilion including tables and a walking path in the shape of the 1813 fort on the five-acre site in Baldwin County. The park is not staffed, and annual visitation is estimated at less than 200. The fort commemorates the 1813 battle and massacre that was a chief cause of the Creek War. This is considered a priority 3 property.

### **Fort Morgan**

The Fort Morgan site, located in Baldwin County, encompasses nearly 500 acres and includes multiple historic and modern structures. Fort Morgan itself, completed in 1834, first made history during the Civil War for its role in the Battle of Mobile Bay, but was again occupied by the U. S. Military during the Spanish American War and both World Wars. Eight permanent staff members maintain and manage the site. Annual visitation is estimated at approximately 90,000 visitors. This is considered a priority 1 property.

### **Fort Toulouse/Fort Jackson**

The Fort Toulouse/Fort Jackson site in Elmore County includes 160 acres and multiple modern and reconstructed buildings and facilities, as well as Native American, French, and American archaeology, in a park setting. Native Americans occupied the site before the French built the first Fort Toulouse in 1717. The fort was then rebuilt in 1747 as a result of erosion. Following the defeat of the Indians at the Battle of Horseshoe Bend in 1814, Fort Jackson was erected in honor of Andrew Jackson. The site is managed and maintained by eight permanent staff and receives over 155,000 annual visitors, the most of any Commission property. This is considered a priority 1 property.

### **Gaineswood**

The 4½ acre property at Gaineswood consists of a historic mansion, circa 1843-1861, a servant house, shed, and gazebo. The outbuildings have been deemed structurally unsafe. The property is located in Marengo County. The Commission has three full-time permanent employees located at the facility. Gaineswood welcomes just over 3,000 visitors annually. This is considered a priority 2 property.

### **Magnolia Grove**

Magnolia Grove is a 15 acre site in Hale County consisting of a house (circa 1840), a kitchen, an office, and a servant house. The site is staffed by two employees, and receives less than 900 annual visitors. This is considered a priority 2 property.

### **Middle Bay Lighthouse**

The Middle Bay Lighthouse, built in 1885, is located in Mobile Bay and is only accessible by boat. It is the only example of this type in the region. Because of the remoteness of the site, it is not staffed nor are visitors counted. This is considered a priority 3 property.

### **Montgomery Greyhound Station**

Located in downtown Montgomery, this is the site of an important Civil Rights event, in which Freedom Riders arriving at the bus station were brutally attacked by an angry mob. Only a portion of the original bus station remains. It is adjacent to the old Federal courthouse that was the site of the subsequent trial and other Civil Rights cases. Its proximity to the new federal courthouse restricts its use. The current owner (the U. S. General Services Administration) has now leased the property to the Commission. The Commission has proposed to use another existing building in the vicinity as a visitor center. This is considered a priority 1 property.

### **Old Cahawba**

Old Cahawba is a 433-acre site consisting of an abandoned town, and Alabama's first permanent capital (1819-1826), in Dallas County. The Fambro house and the Barker slave houses are the only early buildings that remain, but several archaeological sites are present. Historic structures and cemeteries, as well as modern facilities, adorn the property. This large site may soon more than double in size as a result of the acquisition of additional lands by the Commission through eminent domain and other purchases. The site is staffed by seven permanent employees, and welcomes nearly 80,000 annual visitors. This is considered a priority 1 property.

### **Pond Spring**

Pond Spring, also known as the General Joe Wheeler home, is a 50-acre site in Lawrence County with multiple historic and modern buildings, as well as a rock-lined pond. The Main House dates back to the 1890's, though some buildings on the site are from much earlier. A staff of four manages and maintains the site, which received approximately 2,500 visitors annually before it was closed (see discussion below in *Findings and Recommendations* section). This is considered a priority 1 property.

### **Tardy Cottage**

The Tardy Cottage is an 1858 raised cottage in downtown Mobile that has been restored and converted to leased office space. This property was not ranked in the ERA report.

### **Damage from Hurricane Ivan**

Currently, the Commission is working with the Federal Emergency Management Agency (FEMA) to restore those sites that were damaged by Hurricane Ivan.

The Fort Morgan site in Baldwin County suffered the worst damage due to Hurricane Ivan. The ferry landing and dock was destroyed. There was flooding in the fort and the 1903 latrine was destroyed. The Senior Staff building is missing a ridge cap and the ceiling has fallen. The bakery steps were washed away. The ductwork washed away under buildings on piers, one AC condenser flooded, the restrooms flooded and the septic system is backed up. Also, the fishing pier has structural and deck damage. The fences near the entrance were damaged. The staff has removed the water from the fort and they are in the process of removing mud from the building. The steps at the bakery have been recovered and repaired. The bathrooms are now repaired and sanitized. The fences have now been fixed.

Damaged caused by Hurricane Ivan to the Middle Bay Lighthouse included some shingles missing, some siding damage, some of the roof deck is exposed, bolts are pulled loose on the dock platform, and the drip flashing is missing. In addition, it was reported that there is a potential for some unseen structural problems. These repairs are awaiting evaluation from a roofing contractor and engineer.

Hurricane Ivan caused damage to the Old Cahawba site. The site had a porch collapse at the Fambro House and a tree fall on the Education Center. Also, there was damage to the tin roof on the St. Luke's Church and the chimney collapsed on the McHugh House. All debris is now cleaned up and the tree on the Education Center has been removed and the shingles replaced.

Hurricane Ivan caused some roof damage to the Magnolia Grove slave house and some shingles were missing on a storage building. Trees and limbs are also down due to the storm. These damages have since been repaired.

Damage done by Hurricane Ivan at Fort Toulouse included the log woodshed being crushed and no water due to the pump being damaged. This pump has since been replaced. The staff is now in the process of rebuilding the shed and cleaning up the debris.

FEMA assessed approximately \$60,000 of damage to the Pond Spring site.

The Capitol suffered minor damage from Hurricane Ivan. Besides limbs and debris, the exterior paint and plaster had some damage due to the storm. The debris has since been cleaned up, however, the exterior paint and plaster has yet to be repaired.

### **FINDINGS AND RECOMMENDATIONS**

#### **Finding #1 – Personnel Actions, Related Expenditures, and Ethics Problems**

The Commission allowed Executive Director Lee Warner to resign on August 20, 2004, effective January 7, 2005. It appears that his resignation was in lieu of termination of his employment by the Commission. Mr. Warner was allowed to receive his full salary during the period between August 20, 2004 and January 7, 2005, although he was not allowed to work at the Commission's office in Montgomery. On August 20, 2004, an agreement was signed by Lee Warner and Janice Hawkins as Chairperson of the Commission. This agreement allowed Lee Warner to continue receiving his full salary while providing the Commission with the following services: (1) consulting services regarding the acquisition of a ferry boat to be used at Fort Morgan; and (2) consulting and other services regarding the acquisition of property now belonging to the City of St. Jude in Montgomery in connection with the establishment of the trail commemorating the Selma to Montgomery civil rights march. These services were to be provided for the first eight weeks after August 20, 2004, at which time Mr. Warner was placed on annual leave for the remainder of the period until the effective date of the resignation.

Under Mr. Warner's direction, several other questionable personnel actions and related expenditures occurred.

In June 2002, Mr. Warner hired Persijs Kolberg, Ph.D. as site director for Fort Morgan. A letter dated April 8, 2002 from Lee Warner to Douglas Lunsford, Manager Special Projects - State Personnel Department, Mr. Warner requested that Dr. Kolberg be hired at a salary level above the minimum entry level salary for the position. He stated in the letter that Dr. Kolberg expressed a great interest in working for the Commission and was willing to accept a pay cut from what he previously earned. The letter stated that the State's salary range for the position was substantially lower than the last position Dr. Kolberg held in California. Dr. Kolberg agreed to accept employment at the salary approved by the State Personnel Department.

In May 2002, the Commission purchased a house built in 2000 located in Gulf Shores, Alabama. A refrigerator to be used in the house was also purchased by the Commission. Dr. Kolberg and his wife reside in the house and do not pay rent. A state car is also assigned to him. In a letter dated August 15, 2003 from Lee Warner to Seth Hammett, Speaker of the House of Representatives, Mr. Warner stated that "Fort Morgan is, as you know, a large site which has highly significant challenges – both financially and programmatic. As we worked to find a Site Director with the experience and ability to successfully deal with these, it became obvious to us that we could not be successful in finding this person within the rigid salary limitations of the state personnel system. Accordingly, we determined to provide housing to the director as part of our compensation package. We carefully researched the legality and appropriateness of this kind of action and secured the assent of State Personnel Department." The letter also contained an excerpt from the Commission's policy manual which provides that Commission employees may be required to live on Commission-owned property in order to "1) provide someone on site to tend a property; 2) provide an off-hours presence on-site; 3) have a key employee live in the community that forms the base of support for a historic site; 4) provide a wage enhancement in areas with a high cost of living."

We discussed the purchase of the house in great length with the Commission's Administrative Services Supervisor, Clara Hudson, who informed us that Mr. Warner secured the approval of State Personnel and the Attorney General's Office to purchase the house. We reviewed the minutes for the April 3, 2002 Executive Committee Meeting and noted in Mr. Warner's Director's Report that a house was being purchased in Gulf Shores to be used by the new site director at Fort Morgan and the purchase of the house had been approved by the Attorney General's Office and the State Personnel Department. We contacted the State Personnel Department and the Office of the Attorney General to substantiate Mr. Warner's and other employees' statements to us and to the Commission and we determined that no such approvals were obtained. Also, there was a mobile home on-site at Fort Morgan in which the former site manager lived. It does not appear that the purchase of newly-built living accommodations that are not located on a historical site is authorized by the statutes governing the Commission.

The Commission hired Myers Brown as a curator for the Pond Spring site. Mr. Brown was paid \$1,250 for moving expenses upon his hiring, which is not an allowable expenditure from state funds. The moving expenses were paid from the account of the Joe Wheeler Foundation, which is a separate non-profit organization. The Pond Spring site manager, Melissa Beasley, wrote a letter instructing the accountant of the Joe Wheeler Foundation account to pay Mr. Brown for his moving expenses.

Lisa Lichtfuss was hired by Lee Warner in July 2003 to serve as the fund-raiser for the Commission and the Alabama Historical Commission Foundation, Inc. Mrs. Lichtfuss' salary was \$78,999.96 annually. She also received a monthly stipend of \$1,500 from the Alabama Historical Commission Foundation, Inc. to cover her travel expenses, and a housing allowance for her to live in Montgomery because her home is in Tupelo, Mississippi. Mrs. Lichtfuss traveled from Mississippi on Monday mornings to report to work by mid-day and usually left by mid-day on Thursdays to return to Tupelo, Mississippi. Mrs. Lichtfuss included her travel time as work time on her timesheets. Mr. Warner also routinely allowed her to work from her home in Mississippi.

In October 2004, we reviewed the personnel files to determine the job duties of Mrs. Lichtfuss. However, there was nothing in the file to indicate her duties. We asked the Commission's Administrative Services Supervisor about the duties of Mrs. Lichtfuss. She stated that Mrs. Lichtfuss reported directly to Mr. Warner and the Foundation and she was not aware of Mrs. Lichtfuss' duties.

Mrs. Lichtfuss verbally admitted to us that she worked solely for the Foundation, and was paid by the Commission with the understanding that the Foundation's sole purpose is to support the Commission. In September 2004, Mrs. Lichtfuss was asked by the Foundation board to write a draft of her perception of her duties.

On October 20, 2004, Mrs. Lichtfuss resigned effective November 1, 2004. During Mrs. Lichtfuss' last month of employment it was noted that she was not present in the Montgomery office for approximately three weeks. We requested a copy of Mrs. Lichtfuss' itinerary from the Commission to determine where she was working. We were informed that Mrs. Lichtfuss was permitted to work from home until the effective date of her resignation. Upon review of Mrs. Lichtfuss's Form 11, we noted that she was to be paid for 64 hours of unused annual leave. Mrs. Lichtfuss not only earned annual and sick leave, she also earned compensatory leave almost every pay period.

Mr. Warner authorized a Commission employee, Cheryl Sneddon to be absent from work for a period of seven weeks, while on a personal trip to China; however, the employee was not required to take annual leave but instead was allowed "administrative leave". The Commission did not demonstrate that it received any benefit or furthered its statutory mission by allowing this employee to be paid and not on annual leave during this time. According to the State Personnel Department, any "administrative" or additional leave must be specifically authorized by the Governor. The Commission did not obtain the Governor's approval for this employee to be on "administrative leave".

Mr. Warner hired Mark Driscoll as the Historic Sites Director. Subsequently, Mr. Driscoll's wife, Janet Driscoll, was contracted to perform graphic design work for the Commission. Mrs. Driscoll performed graphic design work on the *Handbook for Owners of Alabama's Historic Houses* and was paid \$2,360. She also designed page grids and formatting for the Alabama Historic Inventory Manual for \$499.

The Goat Hill Museum gift shop was managed by a contract employee who earned approximately \$42,000 per year. This appears to be an excessive salary for a small gift shop manager when compared to similar types of retail operations at other state agencies. It is our understanding that the contract for this employee has been terminated.

### **Recommendations**

The Commission should operate within the scope of its legal authority as a state agency when hiring and terminating employees. Additional benefits and compensation should not be provided to employees of the Commission that are not specifically authorized by law.

The Commission should adjust (reduce) the annual leave balance for Ms. Sneddon for the hours she was absent from work during her personal trip to China.

The Commission should not hire or place employees in positions for which a conflict of interest may exist. The Commission should ensure that transactions and contracts with others do not create or result from a conflict of interest on the part of its employees or Commission members.

### **Finding #2 – Historic Preservation Investment Fund Cash Balance Reconciliation**

The Commission operates from two Special Revenue Funds in the State Treasury. In 1990, the State Historic Preservation Fund #365 was established by the *Code of Alabama 1975*, Section 41-9-255, as an “operating fund”, into which all Commission moneys were deposited and from which all expenditures of the Commission were paid. The Historic Preservation Investment Fund #785 was established in 1995 as authorized by the *Code of Alabama 1975*, Section 41-9-249(7c). The money deposited in Fund #785 is invested by the State Treasurer in short-term investments such as repurchase agreements and certificates of deposit, on behalf of and specifically authorized by the Commission.

During the past ten years, the State Treasurer maintained interest-bearing bank accounts used to hold money in the Historic Preservation Investment Fund #785. The separate bank accounts were necessary because the interest from the money placed in the bank accounts accrues to the Commission instead of the General Fund. The State Treasurer maintained the funds therein and invested or liquidated investments upon instructions from the Commission. As funds were needed to meet the Commission’s expenditure obligations, Commission accountants sent requests to the State Comptroller’s Office to transfer funds from Fund #785 to Fund #365. The Commission also had the responsibility to inform the State Treasurer that transfers to Fund #365 were being made.

The Commission has a responsibility to maintain adequate accounting records, to adequately record transactions, and to reconcile its bank account and State Treasury account balances with their accounting records. The Commission has never balanced its accounting records for Fund #785 to the records maintained by the State Treasurer and the State Comptroller's records. As we reported in previous examinations, the Commission's accounting records were out of balance with the State Comptroller and State Treasurer. We recommended that the Commission's accountants reconcile the accounting records to those of the State Treasurer and State Comptroller. The Commission's accounting staff attempted several times to reconcile the records and were unable to do so; therefore, at the request of the Commission accountants and the State Treasurer, we performed a complete reconciliation of the Commission's accounting records for the past ten years.

On many occasions during the ten-year period, the Commission's accounting staff failed to notify the State Treasurer's office when money needed to be transferred from the bank accounts to the State's main accounts to meet the Commission's expenditure obligations. The Commission would record a transfer from Fund #785 to Fund #365 with the State Comptroller; however, the Commission failed at times to notify the State Treasurer of the need to transfer the money from the bank accounts to the State's account to meet the expenditure obligations of the Commission. As a result, investments purchased from the bank accounts were not liquidated and deposited, and monies were not moved from the bank accounts to coincide with the transfers that were recorded within the State Comptroller's records. Instead, other monies in the State Treasury were used to pay for Commission expenditures while the Commission's money remained in the bank accounts or invested. This resulted in the bank account balances being in excess of the available cash balance recorded in Fund #785. During the 2001-2002 fiscal year, the Commission liquidated all of its investments (repurchase agreements and Certificates of Deposit) and deposited the money in the bank accounts; however, other State Treasury money continued to be used for expenditures, while Commission funds remained in the interest-bearing bank accounts.

We performed a reconciliation of the bank accounts and Fund #785, beginning at the inception of Fund #785 in 1995. The results of our reconciliation are presented in the table below. The information in the table represents transactions recorded in the accounting records maintained by the State Comptroller. These transactions represent the actual receipts and disbursements that were processed.

Fiscal Year	Beginning Available Cash	Receipts	Disbursements	Time Deposits and Repurchase Agreements	Year-End Available Cash
1994-1995	\$ 0.00	\$1,633,825.50	\$ 0.00	\$(534,650.67)	\$1,099,174.83
1995-1996	1,099,174.83	(810,421.16)	366,444.19	(486,622.68)	168,575.18
1996-1997	168,575.18	582,288.37	(250,000.00)	257,836.87	758,700.42
1997-1998	758,700.42	878,746.07	(817,534.49)	(45,803.23)	774,108.77
1998-1999	774,108.77	1,259,953.64	(1,494,239.12)	0.00	539,823.29
1999-2000	539,823.29	775,072.60	(890,567.20)	0.00	424,328.69
2000-2001	424,328.69	2,232,659.02	(2,575,000.00)	0.00	81,987.71
2001-2002	81,987.71	3,037,391.87	(3,330,225.00)	274,589.04	63,743.62
2002-2003	63,743.62	2,321,270.60	(2,490,000.00)	534,650.67	429,664.89
2003-2004	\$ 429,664.89	\$ 864,838.58	\$(1,079,664.00)	\$ 0.00	\$ 214,839.47

At September 30, 2004, the reconciled cash balance for Fund #785 was \$214,839.47 and the bank accounts held \$1,974,343.06, resulting in a difference of \$1,759,503.59. This amount, \$1,759,503.59, represents the amount that should have been transferred from the bank accounts to Fund #785 for transfer to Fund #365; therefore, this amount is due to the State Treasury from the bank accounts.

**Recommendation**

The Alabama Historical Commission should implement procedures to ensure that the correct amount of cash and investments are recorded in the State of Alabama Central Accounting System and included in the Alabama Historical Commission's cash balances in the State Treasury. These procedures should include notifying the State Treasurer of all transfers needed by the Alabama Historical Commission and reconciling the accounting records and bank accounts monthly. The Alabama Historical Commission and the State Treasurer should immediately transfer \$1,759,503.59 from the bank account to the State Treasury to repay the State Treasury through September 30, 2004.

**Finding #3 – Pond Spring (Wheeler Home) Historic Site and Conditions at Other Sites**

The Pond Spring site is closed because of its condition of disrepair and deterioration. The artifacts at the Pond Spring site are in jeopardy of being lost. The Wheeler house, which is the main house on the site, was closed on January 1, 2000 because it was unsafe for tours. The ceilings have holes, the walls are cracking with areas where the plaster is falling off, the stairs outside are falling in, there is a hole between the side walkway and the stairs leading to the entrances on the side and back of the house, and the artifacts which are covered in plastic are stacked in piles inside the house. Currently, artifacts remain exposed to the elements and stand the risk of being lost if not moved immediately to a climate-controlled environment until the house is adequately restored. Visitors were allowed to tour the entire site with the exception of the main house until November 29, 2004, when the entire site was closed due to its state of disrepair and for liability reasons. There is a barn which is falling down and is beyond repair. There are trenches, which have been there for an extended period of time, with piles of dirt next to them and roped barricades around them throughout the site. Some of the structures on the property in eminent danger of collapse have been restored. The Commission is currently in the process of securing appropriate storage for the artifacts until the main house can be restored.

The Commission contracted with a consultant, Jack Pyburn, on March 12, 2001 to prepare a Master Plan for restoration of the Pond Spring site. The original contract amount for the consultant was \$315,673. On March 27, 2002, the Commission approved a \$159,440 amendment resulting in a total contract amount of \$475,113. As of September 30, 2004, the Commission had paid \$410,484.09 with a remaining balance on the contract of \$64,628.91. The master plan prepared by the consultant was dated May 2002. The estimated cost to restore the historic buildings on the site was approximately \$2 million. The estimated cost was expected to increase if the proposed restoration was prolonged and further deterioration occurred.

William Seale, a historian from Virginia, submitted an \$18,000 proposal to the consultant Jack Pyburn, for the Pond Spring master plan project. Mr. Seale proposed to visit the site, study the collection and evaluate it generally in terms of preservation/conservation, study the buildings and evaluate them generally in terms of preservation/conservation and make observation on how the studies could best be presented to serve the current interpretive plan. The end product was to be a written plan. Mr. Seale made two visits to Pond Spring and wrote two letters for which he was paid \$7,000 by Jack Pyburn. Mr. Seale did not submit a written report and did not perform any more work on the project and did not indicate that he desired to participate any further. Jack Pyburn continued the work and completed the Master Plan in May 2002 which was accepted by the Commission. Over a year later, Mr. Seale contacted Executive Director Lee Warner and was upset that he did not finish his project. Lee Warner and Mark Driscoll, Historic Sites Director, requested of Jack Pyburn that Mr. Seale be allowed to add whatever he desired to the plan. Mr. Seale was sent a full set of the master plan documents for his review. Mr. Seale sent back a set of editorial comments which were subsequently incorporated into the plan. Mr. Seale did not produce a report as indicated in his proposal. Mr. Seale then submitted an invoice for \$11,000 to Jack Pyburn on March 29, 2004 for his additional work on the master plan. Jack Pyburn would not pay this invoice; however, it was paid by the Alabama Historical Commission Foundation, Inc. on June 9, 2004 "in order to maintain a good working relationship with Mr. Seale".

Since the master plan was received, the Commission has spent approximately \$431,373.63 on restoration of the site; no expenditures for construction or restoration were paid during the 2003-2004 fiscal year. The contractor used in the construction/restoration was Leatherwood, Inc. An electrical subcontractor used by Leatherwood, Inc. did not fulfill their contractual obligation and abandoned the job before finishing the electrical work. At the completion of this examination, the electrical work remained unfinished with no expected date of completion.

The Fort Morgan site has buildings in need of repair and regular maintenance. This site suffered serious damages due to Hurricane Ivan which have not been repaired, including the destroyed ferry dock and landing.

The Teague house needs painting, some of the bricks surrounding the house have fallen down, the fence is broken and the steps are slippery and in need of painting. The upstairs balcony is also in need of repair. We attended a meeting of the Executive Committee of the Commission in the historic carriage house located at the rear of the Teague House property in Montgomery, where we noticed unrepaired water damage and several large buckets placed on the floor in the carriage house to catch water from the leaking roof.

### **Recommendation**

The Alabama Historical Commission should implement adequate procedures in order to ensure the preservation of historic sites and artifacts under its management. Artifacts in danger of being lost should be placed in a protected, safe area as soon as possible.

**Finding #4 – Alabama Historical Commission Foundation**

On November 1, 2001, three Commission members established the Alabama Historical Commission Foundation, Inc. as a separate non-profit organization to provide financial and program support to the Commission. Instead, the Foundation has received substantial financial and program support from the Commission and has not provided any substantial benefits or support to the Commission. The Foundation received donated and other public funds that normally would have been received by the Commission and deposited into the State Treasury.

The Foundation has received financial benefits because of its relationship with the Commission. All of the Commission's executive committee members are Foundation board members. Three of the Commission's employees perform Foundation business on state time, and the Foundation's computer is housed in the main office of the Commission. The incorporation fee was paid by Commission employee Lisa Jones. The Commission subsequently reimbursed Ms. Jones with state funds for the amount of the incorporation fee. The Commission has also directed what appears to be public funds from outside sources to the Foundation.

The Foundation received \$135,000 from the Montgomery Riverfront Development Foundation (MRDF). The Commission and the MRDF entered into an agreement dated December 18, 2002, which relates to modification of the Commission's easement on the Montgomery Riverfront Center. The agreement stipulated that the MRDF would pay or cause to be paid to the Commission or its designee \$400,000 and a gift of four contiguous season tickets to the Alabama Preservation Alliance to all baseball events so long as the stadium exists. A payment of \$135,000 was received by the Foundation as the Commission's designee. No other payments had been received; however, it appears that future payments will be given to the Foundation.

The Foundation received \$14,000 from the Joe Wheeler Foundation, a non-profit organization. The Joe Wheeler Foundation received \$14,000 from cellular telephone tower mitigation settlement on the Pond Spring site. Mr. Warner stated that he "parked" the State funds in the Wheeler Foundation because he did not want the State to have access to the funds and he had no where else to put the funds. When the Alabama Historical Commission Foundation, Inc. was established, Lee Warner instructed the Wheeler Foundation's accountant to issue the \$14,000 check to the new Foundation. Lee Warner acknowledged that he "bent the law" by parking these funds in the Joe Wheeler Foundation checking account. He stated that "we did not want to put that money in the Commission's accounts because we would lose control of it".

The Foundation also received funds from donors because of the fund-raising activities of Lee Warner and other Commission employees. The fund raising activities were incurred at the expense of the Commission. If the Foundation had not been formed, it is likely the funds would have been received by the Commission and would have been deposited in the Commission's accounts. Lisa Lichtfuss was instructed to direct any funds raised to the Foundation; however, she did not raise any funds the entire time that she was employed by the Commission.

Ms. Lichtfuss received \$21,494.32 from the Foundation for travel and housing. Although she resided in Mississippi and she accepted employment in Alabama, the Commission did not require her to move and arranged for the Foundation to pay her a housing and travel allowance each month.

Lee Warner received \$8,404.83 for meals and entertainment, travel reimbursements, and copying expenses from the Foundation. Of this amount, Mr. Warner purchased \$273.48 of alcoholic beverages. He spent \$839.71 for entertainment of a potential donor who later donated \$536. He spent \$1,746.12 to pay the travel expenses, meals, and entertainment expenses for applicants for the fund-raiser position.

The Foundation paid Lisa Jones \$3,000 for moving expenses. Ms. Jones is the Commission employee who initially paid the Foundation's incorporation fee and who is currently managing the Fort Morgan ferryboat acquisition project.

The Foundation also had purchases totaling \$8,690.60 as follows: \$257.40 for champagne, champagne glasses, strawberries, truffles, cheese and crackers for a reception; \$44.64 for flowers; \$1,000 for a historical marker; \$5,000 for a fund-raiser on a national level; \$2,388.56 for credit card purchases including a laptop computer for Lee Warner, food, and other travel expenses.

Most of the above expenses paid by the Foundation are not allowable expenses for public funds and would have been illegal if paid from Commission funds.

It was noted that the Alabama Historical Commission Foundation, Inc. should have a balance of \$52,789.75 reserved for the Pond Spring historic site. Based upon the records reviewed, the Foundation received donations for Pond Spring totaling \$70,291.69 and had expenditures related to Pond Spring in the amount of \$17,501.94 of which \$11,000.00 was paid to William Seale as discussed above.

### **Recommendation**

Donations and other income made payable to the Commission should not be given to the Foundation and deposited in the Foundation bank account. The Alabama Historical Commission should ensure that all employees that are hired as state employees work for the Commission, and that no employee does work for another entity while on State time.

**Finding #5 – Fort Morgan Ferry Project**

The Commission lobbied the U. S. Congress for approval of \$2.5 million in federal funds for the Fort Morgan ferryboat project. However, the congressional appropriation and spending authority for these funds has not occurred, and authorization may initially occur for only \$2.2 million. There is a matching funds requirement of 25%, which means that the Commission must provide an additional \$625,000 in non-federal funds for the project if it is fully funded. All of the funds will be required to be used for capital outlay and may not be used for maintenance or operating expenses. The ferry landing at Fort Morgan was destroyed by Hurricane Ivan. The ferry landing has to be repaired or rebuilt before a ferry can be operated from the site. It is estimated that it will take \$665,500 to repair the ferry landing back to its previous condition, or \$1,469,000 to rebuild the entire ferry landing in accordance with up-to-date specifications. Previously, the Commission annually received \$30,000 (\$2,500 per month) in rental income from a private ferry operator and 10% of every dollar above \$700,000 from the ferry company's revenues on a calendar year basis under the terms of a concession contract. Before Hurricane Ivan, the Commission was guaranteed at least \$30,000 per year from the ferry operations concession contract. While the concession contract appears to be legal, the acquisition and operation of a ferryboat by the Commission does not appear to be a historic preservation activity consistent with the statutory mission of the Commission.

**Recommendation**

The Commission should seek legislation that specifically authorizes activities such as the purchase, ownership, and operation of a ferryboat, which is unrelated to its current mission of preserving historic properties.

**Finding #6 – Improper Use of Refunds Against Disbursements**

The Commission improperly coded money received for resale merchandise as a refund against disbursements. This resulted in a circumvention of the Budget Management Act and understatements in the sales of merchandise in the Commission's financial statements.

To ensure compliance with the Budget Management Act in the *Code of Alabama 1975*, Sections 41-19-1 through 41-19-12, state agencies prepare operations plans. The operations plans identify personnel costs, employee benefits, travel, supplies, equipment purchases, and other expenditures by major object code and represent the annual operating budget for the fiscal year. The information on the operations plans is used to control spending against the approved appropriation (program) amount by major object code. As transactions are processed throughout the year, the total of expenditures and purchase orders may not exceed the amount recorded for each major expenditure object. For example, if an agency budgeted \$600 for object code 0500 (Repairs and Maintenance) and has expended \$500 against object code 0500, a purchase order or expenditure exceeding \$100 against object code 0500 will not be processed because of insufficient budget authority. Revisions to the operations plan can be made and are necessary for various reasons, including additional allotments needed and adjustments between line items of major object codes to better reflect expenditures. Procedures to revise the operations plans are outlined in the Fiscal Policy and Procedures Manual issued by the Department of Finance.

According to Commission accounting personnel, in prior years, when historical sites exceeded their budget authority for resale merchandise, a cash receipt (refunds against disbursements) was prepared. Once processed, the cash receipt will reduce expenditures in Central Accounting System, allowing the Commission to purchase additional merchandise without following the appropriate procedures for revisions to the operations plans. This also appears to have contributed to an understatement of sales in the 2001-2002 fiscal year of \$21,000.

The Commission implemented the recommendation below subsequent to the examination period.

**Recommendation**

Revisions to the Alabama Historical Commission operations plans should be made according to procedures outlined in the Fiscal Policy and Procedures Manual, and proceeds from sales should be classified as such in the accounting records and financial statements.

**Finding #7 – Improper Deposits of Routine Operating Receipts**

The State of Alabama uses funds to separately account for the various activities of each agency. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities. The *Code of Alabama 1975*, Section 41-9-255, established the “Alabama Historic Preservation Fund” (Fund #365) and requires that all moneys received by the commission from admissions, inspection fees, leases, rentals, loans, governmental appropriations be deposited into this Fund. As the main operating fund of the Commission, Fund #365 has budgetary controls placed upon it, while the Alabama Historical Preservation Investment Fund #785 does not.

During the examination period, money collected routinely by the Commission (admission fees, etc.) to be used for operations was deposited into the Historic Preservation Investment Fund #785 instead of the Commission’s normal operating Fund #365. This was also reported in previous examinations. As a result, numerous transfers were required to move money from Fund #785 to Fund #365 to pay operating expenses. This does not appear to be in compliance with the laws that established the funds.

**Recommendation**

The Alabama Historical Commission should deposit all revenues that will be used for operations into Fund #365. Only donations, gifts, bequests, or other similar revenues or grants from private sources that are specifically intended for investments should be deposited into Fund #785.

**Finding #8 – Minutes of Commission Meetings**

Attorney General Opinion 99-153 advises that minutes should be taken at meetings even when no business is conducted. Attorney General Opinion 90-045 also advises that complete and accurate minutes must be kept of meetings. The minutes reviewed did not properly reflect the proper actions of the Commission. The minutes were not complete and were vague. In some instances, the business conducted during the Commission meetings was not determinable.

The Commission implemented the recommendation below subsequent to the examination period.

**Recommendation**

The Alabama Historical Commission should ensure that complete and accurate minutes are kept of all Commission meetings.

**Finding #9 – Incorrect Leave Records and Payments**

It is the Alabama Historical Commission's responsibility to ensure that the service date and leave progression start date for each employee is correctly recorded in the State's payroll and personnel accounting system, the Government Human Resource System (GHRIS). Also, the Historical Commission should make certain the rate of annual leave being earned by the employee is correct. Out of a selection of 25 employees, there were two instances where the employee's leave progression start date was in error due to not adjusting the employees' leave progression start date for part-time work. In both instances this error caused the employees to accrue the incorrect amount of leave.

It is the Alabama Historical Commission's responsibility to ensure that the correct amount of leave is paid to employees who are terminated or retired during the examination period. There was one instance where an employee retired and did not receive payment for ½ of her sick leave balance upon retirement.

There also was one instance where the payroll register shows that the employee was correctly paid for hours worked, holiday, and leave all in one lump sum. However, the employee's separation pay was not correctly allocated between regular hours worked and fringe benefits. This is considered an error in the accounting records.

These errors were communicated to appropriate personnel and were corrected.

**Recommendation**

The Alabama Historical Commission should ensure that the leave progression start date for employees is correctly recorded in GHRS and that the rate of annual leave being earned by employees is accurate.

The Alabama Historical Commission should ensure that the correct amount of leave is paid to employees who are terminated or retired during the examination period and that the separation pay is properly recorded and allocated between regular hours worked and fringe benefits.

Sworn to and subscribed before me this  
the 17<sup>th</sup> day of March, 2005.

Gail Taylor  
Notary Public

Sworn to and subscribed before me this  
the 17<sup>th</sup> day of March, 2005.

Gail Taylor  
Notary Public

Respectfully submitted,

Sharon T. Elston

Sharon T. Elston  
Examiner of Public Accounts

Heather M. Oates

Heather M. Oates  
Examiner of Public Accounts

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***Commission Members and Officials***  
***October 1, 2001 through September 30, 2004***

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<b>Commission Members</b>		<b>Term Expires</b>
Hon. Janice Hawkins, Chairman	Troy, AL	2004
Hon. Daniel D. Bennett	Auburn, AL	2009
Hon. Lucy Baxley	Montgomery, AL	Indefinite
Hon. Bob Riley	Montgomery, AL	Indefinite
Hon. Seth Hammett	Montgomery, AL	Indefinite
Hon. Winston Smith T, Jr.	Opelika, AL	2003
Hon. Frank Litchfield, III	Montgomery, AL	2003
Hon. William Drinkard	Cullman, AL	2006
Hon. Craig Sheldon, Ph.D.	Montgomery, AL	2003
Hon. Nicholas H. Cobbs, Jr.	Greensboro, AL	2006
Hon. J. Danny Cooper	Montgomery, AL	2010
Hon. Don Siegelman	Montgomery, AL	2003
Hon. Riley B. Smith	Montgomery, AL	2003
Hon. Steve Windom	Montgomery, AL	2003
Hon. Steve Sharp	Pine Mountain, GA	2003
Hon. Mark Berson	Montgomery, AL	2003
Hon. Edwin Bridges, Ph. D.	Montgomery, AL	Indefinite

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***Commission Members and Officials***  
***October 1, 2001 through September 30, 2004***

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<b>Commission Members</b>		<b>Term Expires</b>
Hon. Barnett Lawley	Montgomery, AL	Indefinite
Hon. James Adams, Ph. D.	Tuscaloosa, AL	2006
Hon. Stephen Martin	Montgomery, AL	2008
Hon. Vivian Paul	Grove Hill, AL	2008
Hon. Lee Sentell	Montgomery, AL	Indefinite
Hon. Kippy Tate	Montgomery, AL	Indefinite
Hon. Mary Stewart	Ozark, AL	2004
Hon. Allen Cronenberg, Ph.D.	Auburn, AL	2003
Hon. Mike Mahan, D.D.S.	Briarfield, AL	2004
Hon. Bobby M. Junkins	Gadsden, AL	2006
Hon. Geri Moulton	Mobile, AL	2006
Hon. Angelo Mancuso, D.O.	Decatur, AL	2006
Hon. Jeff Jakeman	Auburn, AL	2009
 <b><u>Officials</u></b>		
Edwin Bridges, Ph. D. Acting Executive Director	468 S. Perry Street Montgomery, AL 36130	Indefinite
Lee H. Warner, Executive Director	1560 Gilmer Avenue Montgomery, AL 36104	August 2004