

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS65564-RU-52 (05/15)

Short Title: Reform Governmental Ethics. (Public)

Sponsors: Senators Presnell, and Berger of Rockingham.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO REFORM AND IMPROVE GOVERNMENTAL ETHICS IN THE
3 EXECUTIVE AND LEGISLATIVE BRANCHES BY PROVIDING FOR
4 EXECUTIVE BRANCH ETHICS, REFORMING LEGISLATIVE ETHICS,
5 STRENGTHENING LOBBYING LAWS, LIMITING TO \$10,000
6 CONTRIBUTIONS BY POLITICAL COMMITTEES TO STATE PARTY
7 EXECUTIVE COMMITTEES, PROVIDING FOR REAL-TIME ACCESS TO
8 CAMPAIGN REPORTS, MANDATING ETHICS EDUCATION FOR THE
9 EXECUTIVE AND LEGISLATIVE BRANCHES AND LOBBYISTS, REVISING
10 THE ELECTION LAWS; AND TO APPROPRIATE FUNDS TO IMPLEMENT
11 THE ACT.

12 The General Assembly of North Carolina enacts:

13
14 **PART 1. STATE GOVERNMENT ETHICS ACT.**

15 **SECTION 1.** The General Statutes are amended by adding a new Chapter to
16 read:

"Chapter 138A.

"State Government Ethics Act.

"Article 1.

"General Provisions.

17
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19
20
21 **"§ 138A-1. Title.**

22 This Chapter shall be known and may be cited as the 'State Government Ethics Act.'

23 **"§ 138A-2. Purpose.**

24 The people of North Carolina entrust public power to elected and appointed officials
25 for the purpose of furthering the public, not private or personal, interest. To maintain the
26 public trust it is essential that government function honestly and fairly, free from all
27 forms of impropriety, threats, favoritism, and undue influence. Elected and appointed

1 officials must maintain and exercise the highest standards of duty to the public in
2 carrying out the responsibilities and functions of their positions. Acceptance of authority
3 granted by the people to elected and appointed officials imposes a commitment of
4 fidelity to the public interest, and this power cannot be used to advance narrow interests
5 for oneself, other persons, or groups. Self-interest, partiality, and prejudice have no
6 place in decision making for the public. Public officials must exercise their duties
7 responsibly with skillful judgment and energetic dedication. Public officials must
8 exercise discretion with sensitive information pertaining to public and private persons
9 and activities. To maintain the integrity of North Carolina's State government, those
10 citizens entrusted with authority must exercise it for the good of the public and treat
11 every citizen with courtesy, attentiveness, and respect. Because many public officials
12 serve on a part-time basis, it is inevitable that conflicts of interest and appearances of
13 conflict will occur. Often these conflicts are unintentional and slight, but at every turn
14 those public officials who represent the people of this State must be certain that it is the
15 interests of the people, and not their own, that are being served. Officials should be
16 prepared to remove themselves immediately from decisions, votes, or processes where
17 even the appearance of a conflict of interest exists. The State is committed to the
18 responsible exercise of authority by persons of honor and goodwill in government, by
19 adopting a stronger procedure to prevent the occurrence of conflicts of interest in
20 government and to resolve conflicts when they do occur.

21 **"§ 138A-3. Definitions.**

22 The following definitions apply in this Chapter:

- 23 (1) Board. – Any State executive branch board, commission, council,
24 committee, task force, authority, or similar public body, however
25 denominated, except for those public bodies that have only advisory
26 authority.
- 27 (2) Business. – Any of the following, whether or not for profit:
- 28 a. Association.
29 b. Corporation.
30 c. Enterprise.
31 d. Joint venture.
32 e. Organization.
33 f. Partnership.
34 g. Proprietorship.
35 h. Vested trust.
36 i. Every other business interest, including ownership or use of
37 land for income.
- 38 (3) Business associate. – A partner, or member or manager of a limited
39 liability company.
- 40 (4) Business with which associated. – A business in which the covered
41 person or any member of the covered person's immediate family has a
42 pecuniary interest. For purposes of this subdivision, the term 'business'
43 shall not include a widely held investment fund, including a mutual

1 fund, regulated investment company, or pension or deferred
2 compensation plan, if all of the following apply:

3 a. The covered person or a member of the covered person's
4 immediate family neither exercises nor has the ability to
5 exercise control over the financial interests held by the fund.

6 b. The fund is publicly traded, or the fund's assets are widely
7 diversified.

8 (5) Commission. – The State Ethics Commission.

9 (6) Committee. – The Legislative Ethics Committee.

10 (7) Compensation. – Any money, thing of value, or economic benefit
11 conferred on or received by any person in return for services rendered
12 or to be rendered by that person or another. This term does not include
13 campaign contributions properly received and, if applicable, reported
14 as required by Article 22A of Chapter 163 of the General Statutes.

15 (8) Confidential information. – Information defined as confidential by
16 statute.

17 (9) Constitutional officers of the State. – Officers whose offices are
18 established by Article III of the Constitution.

19 (10) Contract. – Any agreement, including sales and conveyances of real
20 and personal property and agreements for the performance of services.

21 (11) Covered person. – A legislator, a public servant, or a judicial officer.

22 (12) Economic interest. – Matters involving a business with which the
23 person is associated or a nonprofit corporation or organization with
24 which the person is associated.

25 (13) Employing entity. – Any of the following bodies of State government
26 of which the public servant is an employee or a member, or over which
27 the public servant exercises supervision: agencies, authorities, boards,
28 commissions, committees, councils, departments, offices, institutions
29 and their subdivisions, and constitutional offices of the State.

30 (14) Extended family. – Spouse, descendant, ascendant, or sibling of the
31 covered person or descendant, ascendant, or sibling of the spouse of
32 the covered person.

33 (15) Immediate family. – An unemancipated child of the covered person
34 residing in the household and the covered person's spouse, if not
35 legally separated.

36 (16) Judicial officer. – Justice or judge of the General Court of Justice,
37 district attorney, clerk of court, or the director or assistant director of
38 the Administrative Office of the Courts, or any person elected or
39 appointed to any of these positions prior to taking office.

40 (17) Legislative action. – As the term is defined in G.S. 120-47.1.

41 (18) Legislative employee. – As the term is defined in G.S. 120-47.1.

42 (19) Legislator. – A member or presiding officer of the General Assembly,
43 or a person elected or appointed a member or presiding officer of the
44 General Assembly before taking office.

- 1 (20) Lobbying. – As the term is defined in G.S. 120-47.1.
- 2 (21) Nonprofit corporation or organization with which associated. – Any
- 3 public or private enterprise, incorporated or otherwise, that is
- 4 organized or operating in the State primarily for religious, charitable,
- 5 scientific, literary, public health and safety, or educational purposes
- 6 and of which the person or any member of the person's immediate
- 7 family is a director, officer, governing board member, employee, or
- 8 independent contractor as of December 31 of the preceding year.
- 9 (22) Official action. – Any decision, including administration, approval,
- 10 disapproval, preparation, recommendation, the rendering of advice,
- 11 and investigation, made or contemplated in any proceeding,
- 12 application, submission, request for a ruling or other determination,
- 13 contract, claim, controversy, investigation, charge, or rule making.
- 14 (23) Participate. – To take part in, influence, or attempt to influence,
- 15 including acting through an agent or proxy.
- 16 (24) Pecuniary interest. – Any of the following:
- 17 a. Owning, either individually or collectively, a legal, equitable, or
- 18 beneficial interest of ten thousand dollars (\$10,000) or more or
- 19 five percent (5%), whichever is less, of any business.
- 20 b. Receiving, either individually or collectively, during the
- 21 preceding calendar year, compensation that is or will be
- 22 required to be included as taxable income on federal income tax
- 23 returns of the covered person, the covered person's immediate
- 24 family, or a business with which associated in an aggregate
- 25 amount of five thousand dollars (\$5,000) from any business or
- 26 combination of businesses. A pecuniary interest exists in any
- 27 client or customer who pays fees or commissions, either
- 28 individually or collectively, of five thousand dollars (\$5,000) or
- 29 more in the preceding 12 months to the covered person, the
- 30 covered person's immediate family, or a business with which
- 31 associated.
- 32 c. Receiving, either individually or collectively and directly or
- 33 indirectly, in the preceding 12 months, gifts or honoraria having
- 34 an unknown value or having an aggregate value of five hundred
- 35 dollars (\$500.00) or more from any person. A pecuniary interest
- 36 does not exist under this sub-subdivision by reason of (i) a gift
- 37 or bequest received as the result of the death of the donor; (ii) a
- 38 gift from an extended family member; or (iii) acting as a trustee
- 39 of a trust for the benefit of another.
- 40 d. Holding the position of associate, director, officer, business
- 41 associate, or proprietor of any business, irrespective of the
- 42 amount of compensation received.
- 43 (25) Public event. – Either of the following:

- 1 a. An organized gathering of individuals open to the general
2 public or to which a legislator or legislative employee is invited
3 along with the entire membership of the House of
4 Representatives, Senate, a committee, a subcommittee, a county
5 legislative delegation, a joint committee, or legislative caucus
6 and to which at least 10 employees or members of the principal
7 actually attend.
- 8 b. An organized gathering of individuals open to the general
9 public or to which at least 10 public servants are invited to
10 attend and at least 10 employees or members of the principal or
11 person actually attend.
- 12 (26) Public servants. – All of the following:
- 13 a. Constitutional officers of the State and persons elected or
14 appointed as constitutional officers of the State prior to taking
15 office.
- 16 b. Employees of the Office of the Governor.
- 17 c. Heads of all principal State departments, as set forth in
18 G.S. 143B-6, who are appointed by the Governor.
- 19 d. The chief deputy and chief administrative assistant of each
20 person designated under sub-subdivision a. or c. of this
21 subdivision.
- 22 e. Confidential assistants and secretaries as defined in
23 G.S. 126-5(c)(2), to persons designated under sub-subdivision
24 a., c., or d. of this subdivision.
- 25 f. Employees in exempt positions as defined in G.S. 126-5(b) and
26 employees in exempt positions designated in accordance with
27 G.S. 126-5(d)(1), (2), or (2a) and confidential secretaries to
28 these individuals.
- 29 g. Any other employees or appointees in the principal State
30 departments as may be designated by the Governor to the extent
31 that the designation does not conflict with the State Personnel
32 Act.
- 33 h. All voting members of boards, including ex officio members
34 and members serving by executive, legislative, or judicial
35 branch appointment.
- 36 i. For The University of North Carolina, the voting members of
37 the Board of Governors of The University of North Carolina,
38 the president, the vice-presidents, and the chancellors, the
39 vice-chancellors, and voting members of the boards of trustees
40 of the constituent institutions.
- 41 j. For the Community Colleges System, the voting members of
42 the State Board of Community Colleges, the President and the
43 chief financial officer of the Community Colleges System, the
44 president, chief financial officer, and chief administrative

1 officer of each community college, and voting members of the
2 boards of trustees of each community college.

3 k. Members of the Commission.

4 l. Persons under contract with the State working in or against a
5 position included under this subdivision.

6 (27) Vested trust. – A trust, annuity, or other funds held by a trustee or
7 other third party for the benefit of the covered person or a member of
8 the covered person's immediate family. A vested trust shall not include
9 a widely held investment fund, including a mutual fund, regulated
10 investment company, or pension or deferred compensation plan, if:

11 a. The covered person or a member of the covered person's
12 immediate family neither exercises nor has the ability to
13 exercise control over the financial interests held by the fund;
14 and

15 b. The fund is publicly traded, or the fund's assets are widely
16 diversified.

17 **"§ 138A-4 and 138A-5. [Reserved]**

18 "Article 2.

19 "Ethical Standards for Covered Persons.

20 **"§ 138A-6. Use of public position for private gain.**

21 (a) A covered person shall not knowingly use the covered person's public
22 position in any manner that will result in financial benefit, direct or indirect, to the
23 covered person, a member of the covered person's extended family, or a person with
24 whom, or business with which, the covered person is associated. The performance of
25 usual and customary duties associated with the public position or the advancement of
26 public policy goals or constituent services, without compensation, shall not constitute
27 the use of public position for financial benefit. This subsection shall not apply to
28 financial or other benefits derived by a covered person that the covered person would
29 enjoy to an extent no greater than that which other citizens of the State would or could
30 enjoy, or that are so remote, tenuous, insignificant, or speculative that a reasonable
31 person would conclude under the circumstances that the covered person's ability to
32 protect the public interest and perform the covered person's official duties would not be
33 compromised.

34 (b) A covered person shall not mention or permit another person to mention the
35 covered person's public position in nongovernmental advertising that advances the
36 private interest of the covered person or others. The prohibition in this subsection shall
37 not apply to political advertising, news stories, or news articles.

38 (c) Notwithstanding G.S. 163-278.16A, no covered person shall use or permit the
39 use of State funds for any advertisement or public service announcement in a
40 newspaper, on radio, or on television that contains that public servant's name, picture, or
41 voice, except in case of State or national emergency and only if the announcement is
42 reasonably necessary to his or her official function.

43 **"§ 138A-7. Gifts.**

1 (a) A public servant or legislator shall not knowingly, directly or indirectly, ask,
2 accept, demand, exact, solicit, seek, assign, receive, or agree to receive anything of
3 value for the public servant or legislator, or for another person, in return for being
4 influenced in the discharge of the public servant's or legislator's official responsibilities,
5 other than that which is received by the public servant or the legislator from the State
6 for acting in the public servant's or legislator's official capacity.

7 (b) A public servant may not solicit for a charitable purpose any gift from any
8 subordinate State employee. This subsection shall not apply to generic written
9 solicitations to all members of a class of subordinates.

10 (c) No public servant, legislator, or legislative employee shall knowingly accept
11 anything of monetary value, directly or indirectly, from a legislative lobbyist or
12 principal as defined in G.S. 120-47.1 or an executive lobbyist or principal as defined in
13 G.S. 147-54.31. No public servant shall knowingly accept anything of monetary value,
14 directly or indirectly, from a person whom the public servant knows or has reason to
15 know any of the following:

16 (1) Is doing or is seeking to do business of any kind with the public
17 servant's employing entity.

18 (2) Is engaged in activities that are regulated or controlled by the public
19 servant's employing entity.

20 (3) Has financial interests that may be substantially and materially
21 affected, in a manner distinguishable from the public generally, by the
22 performance or nonperformance of the public servant's official duties.

23 (d) Subsection (c) of this section shall not apply to any of the following:

24 (1) Meals and beverages for immediate consumption in connection with
25 public events.

26 (2) Nonmonetary items, other than food or beverages, with a value not to
27 exceed ten dollars (\$10.00) provided by a single donor during a single
28 calendar day.

29 (3) Informational materials relevant to the duties of the public servant,
30 legislator, or legislative employee.

31 (4) Reasonable actual expenses for food, registration, travel, and lodging
32 of the public servant, legislator, or legislative employee for a meeting
33 at which the public servant, legislator, or legislative employee
34 participates in a panel or speaking engagement at the meeting related
35 to the public servant's, legislator's, or legislative employee's duties and
36 when expenses are incurred on the actual day of participation in the
37 engagement or incurred within a 24-hour time period before or after
38 the engagement.

39 (5) Entertainment or recreation provided in connection with a public event
40 sponsored by a charitable organization as defined under G.S. 1-539.11.

41 (6) Items or services received by a public servant in connection with a
42 state, national, or regional organization in which the public servant or
43 the public servant's agency is a member by virtue of the person's public
44 position.

- 1 (7) Items or services received by a legislator or legislative employee in
2 connection with a state, regional, or national legislative organization of
3 which the General Assembly, the legislator or legislative employee is a
4 member by virtue of the person's legislative position.
- 5 (8) Items and services received relating to an educational conference or
6 meeting.
- 7 (9) A plaque or similar nonmonetary memento recognizing individual
8 services in a field or specialty or to a charitable cause.
- 9 (10) Gifts accepted on behalf of the State.
- 10 (11) Anything generally available or distributed to the general public or all
11 other State employees.
- 12 (12) Anything for which fair market value is paid by the public servant,
13 legislator, or legislative employee.
- 14 (13) Commercially available loans made on terms not more favorable than
15 generally available to the public in the normal course of business if not
16 made for the purpose of lobbying.
- 17 (14) Contractual arrangements or business relationships or arrangements
18 made in the normal course of business if not made for the purpose of
19 lobbying.
- 20 (15) Academic scholarships made on terms not more favorable than
21 scholarships generally available to the public.
- 22 (16) Political contributions properly received and reported as required
23 under Article 22A of Chapter 163 of the General Statutes.
- 24 (17) Gifts from the public servant's, legislator's, or legislative employee's
25 extended family, or a member of the same household of the public
26 servant, legislator, or legislative employee, or gifts received in
27 conjunction with a marriage, birth, adoption, or death.
- 28 (18) Things of monetary value given to a public servant valued in excess of
29 ten dollars (\$10.00) where the thing of monetary value is entertainment
30 or related expenses associated with the public business of industry
31 recruitment, promotion of international trade, or the promotion of
32 travel and tourism, and the public servant is responsible for conducting
33 the business on behalf of the State, provided all the following
34 conditions apply:
- 35 a. The public servant did not solicit the thing of value, and the
36 public servant did not accept the thing of value in the
37 performance of the public servant's official duties.
- 38 b. The public servant reports electronically to the Commission
39 within 30 days of receipt of the thing of value. The report shall
40 include a description and value of the thing of value and a
41 description how the thing of value contributed to the public
42 business of industry recruitment, promotion of international
43 trade, or the promotion of travel and tourism. This report shall
44 be posted to the Commission's public Web site.

1 c. A tangible thing of value in excess of ten dollars (\$10.00), other
2 than meals or beverages, shall be turned over as State property
3 to the Department of Commerce within 30 days of receipt.

4 (19) Things of monetary value of personal property valued at less than one
5 hundred dollars (\$100.00) given to a public servant in the commission
6 of the public servant's official duties if the gift is given to the public
7 servant as a personal gift in another country as part of an overseas
8 trade mission, and the giving and receiving of such personal gifts is
9 considered a customary protocol in the other country.

10 (e) A prohibited gift shall be declined, returned, paid for at fair market value, or
11 accepted and donated immediately to the State. Perishable food items of reasonable
12 costs, received as gifts, shall be donated to charity, destroyed, or provided for
13 consumption among the entire staff or the public.

14 (f) A public servant or legislative employee shall not accept an honorarium from
15 a source other than the employing entity for conducting any activity where any of the
16 following apply:

17 (1) The employing entity reimburses the public servant or legislative
18 employee for travel, subsistence, and registration expenses.

19 (2) The employing entity's work time or resources are used.

20 (3) The activity would be considered official duty or would bear a
21 reasonably close relationship to the public servant's or legislative
22 employee's official duties.

23 An outside source may reimburse the employing entity for actual expenses incurred by a
24 public servant or legislative employee in conducting an activity within the duties of the
25 public servant or legislative employee, or may pay a fee to the employing entity, in lieu
26 of an honorarium, for the services of the public servant or legislative employee.

27 (g) Acceptance or solicitation of a thing of value in compliance with this section
28 without corrupt intent shall not constitute a violation of G.S. 14-217 or G.S. 14-218.

29 "**§ 138A-8. Other compensation.**

30 A public servant shall not solicit or receive personal financial gain, other than that
31 received by the public servant from the State, or with the approval of the employing
32 entity, for acting in the public servant's official capacity, or for advice or assistance
33 given in the course of carrying out the public servant's duties.

34 "**§ 138A-9. Use of information for private gain.**

35 A public servant shall not use or disclose information gained in the course of, or by
36 reason of, the public servant's official responsibilities in a way that would affect a
37 personal financial interest of the public servant, a member of the public servant's
38 extended family, or a person with whom or business with which the public servant is
39 associated. A public servant shall not improperly use or disclose any confidential
40 information.

41 "**§ 138A-10. Appearance of conflict.**

42 A public servant or legislator shall make reasonable efforts to avoid even the
43 appearance of a conflict of interest in accordance with G.S. 138A-11. An appearance of
44 conflict exists when a reasonable person would conclude from the circumstances that

1 the public servant's or legislator's ability to protect the public interest, or perform public
2 duties, is compromised by familial, personal, or financial interest. An appearance of
3 conflict could exist even in the absence of an actual conflict of interest.

4 **"§ 138A-11. Other rules of conduct.**

5 (a) A public servant shall make a due and diligent effort before taking any action,
6 including voting or participating in discussions with other public servants on a board on
7 which the public servant also serves, to determine whether the public servant has a
8 conflict of interest or an appearance of a conflict. If the public servant is unable to
9 determine whether or not a conflict of interest or the appearance of a conflict may exist,
10 the public servant has a duty to inquire of the Commission as to that conflict or
11 appearance of conflict.

12 (b) A legislator shall make a due and diligent effort before taking any action,
13 including voting or participating in discussions with other legislators, to determine
14 whether the legislator has a conflict of interest or an appearance of a conflict. If the
15 legislator is unable to determine whether or not a conflict of interest or the appearance
16 of a conflict may exist, the legislator has a duty to inquire of the Committee as to that
17 conflict or appearance of conflict.

18 (c) A public servant or legislator shall continually monitor, evaluate, and manage
19 the public servant's or legislator's personal, financial, and professional affairs to ensure
20 the absence of conflicts of interest and appearances of conflicts.

21 (d) A public servant or legislator shall obey all other civil laws, administrative
22 requirements, and criminal statutes governing conduct of State government appointees
23 and employees.

24 **"§ 138A-12. Participation in official actions.**

25 (a) Except as permitted by subsection (e) of this section, no public servant acting
26 in that capacity, authorized to perform an official action requiring the exercise of
27 discretion, shall knowingly participate in an official action by the employing entity if
28 the public servant, a member of the public servant's extended family, or a business with
29 which the public servant is associated, has a pecuniary interest in, or a reasonably
30 foreseeable benefit from, the matter under consideration, which would impair the public
31 servant's independence of judgment or from which it could reasonably be inferred that
32 the interest or benefit would influence the public servant's participation in the official
33 action. A potential benefit includes a detriment to (i) a business competitor of the public
34 servant, (ii) a member of the public servant's extended family, or (iii) a business with
35 which the public servant is associated.

36 (b) Except as permitted by subsection (f) of this section, no legislator shall
37 knowingly participate in a legislative action if the legislator, a member of the legislator's
38 extended family, the legislator's client, or a business with which the legislator is
39 associated, has a pecuniary or economic interest in, or a reasonably foreseeable benefit
40 from, the matter under consideration, which would impair the legislator's independence
41 of judgment or from which it could reasonably be inferred that the interest or benefit
42 would influence the legislator's participation in the legislative action. A potential benefit
43 includes a detriment to (i) a business competitor of the legislator, (ii) a member of the
44 legislator's extended family, or (iii) a business with which the legislator is associated.

1 (c) A public servant described in subsection (a) of this section shall abstain from
2 participation in the official action. The public servant shall submit in writing to the
3 employing entity the reasons for the abstention. When the employing entity is a board,
4 the abstention shall be recorded in the employing entity's minutes. A legislator
5 described in subsection (b) of this section shall abstain from participation in the
6 legislative action. The legislator shall submit in writing the reasons for the abstention to
7 the principal clerk of the house of which the legislator is a member.

8 (d) A public servant shall take reasonable and appropriate steps, under the
9 particular circumstances and considering the type of proceeding involved, to remove
10 himself or herself, to the extent necessary to protect the public interest and comply with
11 this Chapter, from any proceeding in which the public servant's impartiality might
12 reasonably be questioned due to the public servant's familial, personal, or financial
13 relationship with a participant in the proceeding. A participant includes (i) an owner,
14 shareholder, business associate, employee, agent, officer, or director of a business,
15 organization, or group involved in the proceeding, or (ii) an organization or group that
16 has petitioned for rule making or has some specific, unique, and substantial interest in
17 the proceeding. Proceedings include quasi-judicial proceedings and quasi-legislative
18 proceedings. A personal relationship includes one in a leadership or policy-making
19 position in a business, organization, or group.

20 (e) If a public servant is uncertain whether the relationship described in
21 subsection (d) of this section justifies removing the public servant from the proceeding
22 under subsection (d) of this section, the public servant shall disclose the relationship to
23 the person presiding over the proceeding and seek appropriate guidance. The presiding
24 officer, in consultation with legal counsel if necessary, shall then determine the extent to
25 which the public servant will be permitted to participate. If the affected public servant is
26 the person presiding, then the vice-chair or any other substitute presiding officer shall
27 make the determination. A good-faith determination under this subsection of the
28 allowable degree of participation by a public servant is presumptively valid and only
29 subject to review under G.S. 138A-25 upon a clear and convincing showing of mistake,
30 fraud, abuse of discretion, or willful disregard of this Chapter.

31 (f) Notwithstanding subsections (a), (b), and (d) of this section, a public servant
32 or legislator may participate in an official action or legislative action under any of the
33 following circumstances:

- 34 (1) The only pecuniary interest or reasonably foreseeable benefit that
35 accrues to the public servant, the legislator, the public servant's or
36 legislator's extended family, or business with which the public servant
37 or legislator is associated as a member of a profession, occupation, or
38 large class, is no greater than that which could reasonably be foreseen
39 to accrue to all members of that profession, occupation, or large class.
- 40 (2) Where an official or legislative action affects or would affect the
41 public servant's or legislator's compensation and allowances as a
42 public servant or legislator.
- 43 (3) Before the public servant or legislator participated in the official or
44 legislative action, the public servant or legislator requested and

1 received from the Commission a written advisory opinion that
2 authorized the participation. In authorizing the participation under this
3 subsection, the Commission shall consider the need for the legislator's
4 particular contribution, such as special knowledge of the subject
5 matter, to the effective functioning of the General Assembly.

6 (4) Before participating in an official action, a public servant made full
7 written disclosure to the public servant's employing entity which then
8 made a written determination that the interest or benefit would neither
9 impair the public servant's independence of judgment nor influence the
10 public servant's participation in the official action. The employing
11 entity shall file a copy of that written determination with the
12 Commission.

13 (5) When action is ministerial only and does not require the exercise of
14 discretion.

15 (6) When a public or legislative body records in its minutes that it cannot
16 obtain a quorum in order to take the official or legislative action
17 because the public servant or legislator is disqualified from acting
18 under this section.

19 (7) When a public servant notifies, in writing, the Commission that the
20 public servant or someone whom the public servant appoints to act in
21 the public servant's stead, or both, are the only individuals having legal
22 authority to take an official action.

23 **"§ 138A-13. Disqualification to serve.**

24 (a) Within 30 days of notice of the Commission's determination that a public
25 servant has a disqualifying conflict of interest, the public servant shall eliminate the
26 interest that constitutes the disqualifying conflict of interest or resign from the public
27 position.

28 (b) Failure by a public servant to comply with subsection (a) of this section is a
29 violation of this Chapter for purposes of G.S. 138A-45.

30 (c) As used in this section, a disqualifying conflict of interest is a conflict of
31 interest of such significance that the conflict of interest would prevent a public servant
32 from fulfilling a substantial function or portion of the public servant's public duties.

33 **"§ 138A-14. Employment and supervision of members of public servant's extended**
34 **family.**

35 A public servant or legislator shall not cause the employment, appointment,
36 promotion, transfer, or advancement of an extended family member of the public
37 servant or legislator to a State or local office or position to which the public servant or
38 legislator supervises or manages, except for positions at the General Assembly as
39 permitted by the Legislative Services Commission. A public servant shall not participate
40 in an action relating to the discipline of a member of the public servant's extended
41 family.

42 **"§ 138A-15. Bribery, etc.**

43 (a) No person shall offer or give to a legislator or a member of a legislator's
44 immediate household, or to a business with which the legislator is associated, and no

1 legislator shall solicit or receive, anything of monetary value, including a gift, favor or
2 service, or a promise of future employment, based on any understanding that the
3 legislator's vote, official actions or judgment would be influenced thereby, or where it
4 could reasonably be inferred that the thing of value would influence the legislator in the
5 discharge of the legislator's duties.

6 (b) It shall be unlawful for the business associate, client, customer, or employer
7 of a legislator or the agent of that partner, client, customer, or employer, directly or
8 indirectly, to threaten economically that legislator with the intent to influence the
9 legislator in the discharge of the legislator's duties.

10 (c) It shall be unlawful for any person, directly or indirectly, to threaten
11 economically another person in order to compel the threatened person to attempt to
12 influence a legislator in the discharge of the legislator's duties.

13 (d) It shall be unethical for a legislator to contact the business associate, client,
14 customer, or employer of another legislator if the purpose of the contact is to cause the
15 partner, client, customer, or employer, directly or indirectly, to threaten economically
16 that legislator with the intent to influence that legislator in the discharge of the
17 legislator's duties.

18 (e) A violation of subsection (a), (b), or (c) of this section is a Class F felony. A
19 violation of subsection (d) of this section is not a crime but is punishable under
20 G.S. 138A-45.

21 **"§ 138A-16. Disclosure of confidential information.**

22 No legislator shall use or disclose in any way confidential information gained in the
23 course of the legislator's official activities or by reason of the legislator's official
24 position that could result in financial gain for the legislator or any other person.

25 **"§ 138A-17. Personnel-related action unethical.**

26 It shall be unethical for a legislator to take, promise, or threaten any legislative
27 action for the purpose of influencing or in retaliation for any action regarding State
28 employee hirings, promotions, grievances, or disciplinary actions subject to Chapter 126
29 of the General Statutes.

30 **"§ 138A-18. Other ethics standards.**

31 Nothing in this Chapter shall prevent the Supreme Court, constitutional officers of
32 the State, heads of principal departments, the Board of Governors of The University of
33 North Carolina, State Board of Community Colleges, or other State executive boards
34 from adopting more stringent ethics standards applicable to that public agency's
35 operations.

36 **"§ 138A-19. [Reserved]**

37 "Article 3.

38 "State Ethics Commission.

39 **"§ 138A-20. State Ethics Commission established.**

40 There is established the State Ethics Commission.

41 **"§ 138A-21. Membership.**

42 (a) The Commission shall consist of six members. The Governor shall appoint
43 two members, one each from the recommendations of the chairs of the two largest
44 political parties in the State, two members, one each from the recommendations of the

1 Majority Leader and Minority Leader of the Senate, and two members, one each from
2 the recommendations of the Majority Leader and Minority Leader of the House of
3 Representatives. Members shall serve for four-year terms, beginning January 1, 2007,
4 except for the initial terms that shall be as follows:

5 (1) Two members appointed by the Governor upon the recommendations
6 of the minority leaders of the Senate and House of Representatives
7 shall serve initial terms of two years.

8 (2) Two members appointed by the Governor upon the recommendations
9 of the majority leaders of the Senate and House of Representatives
10 shall serve initial terms of three years.

11 (3) Two members appointed by the Governor upon the recommendations
12 of the chairs of the two largest political parties in the State shall serve
13 initial terms of four years.

14 (b) Members shall be removed from the Commission only for misfeasance,
15 malfeasance, or nonfeasance as determined by the Governor.

16 (c) The Governor shall fill any vacancies in appointments from recommendations
17 of the appointing authorities for the remainder of any unfulfilled term.

18 (d) No member while serving on the Commission or employee while employed
19 by the Commission shall:

20 (1) Hold or be a candidate for any other office or place of trust or profit
21 under the United States, the State, or a political subdivision of the
22 State.

23 (2) Hold office in any political party above the precinct level.

24 (3) Participate in or contribute to the political campaign of any public
25 servant or any candidate for a public office as a public servant over
26 which the Commission would have jurisdiction or authority.

27 (4) Otherwise be an employee of the State, a community college, or a
28 local school system, or serve as a member of any other State board.

29 (e) The Commission shall elect a chair and vice-chair annually. The vice-chair
30 shall act as the chair in the chair's absence or if there is a vacancy in that position.

31 (f) Members of the Commission shall receive no compensation for service on the
32 Commission but shall be reimbursed for subsistence, travel, and convention registration
33 fees as provided under G.S. 138-5, 138-6, or 138-7, as applicable.

34 **"§ 138A-22. Meetings and quorum.**

35 The Commission shall meet at least quarterly and at other times as called by its
36 chair. In the case of a vacancy in the chair, the Commission shall meet as called by its
37 vice-chair; or when called by four of its members. Four members of the Commission
38 constitute a quorum.

39 **"§ 138A-23. Staff and offices.**

40 The Commission may employ professional and clerical staff, including an executive
41 director. The Commission shall be located within the Department of Administration for
42 administrative purposes only, but shall exercise all of its powers, including the power to
43 employ, direct, and supervise all personnel, independently of the Secretary of
44 Administration, and is subject to the direction and supervision of the Secretary of

1 Administration only with respect to the management functions of coordinating and
2 reporting.

3 **"§ 138A-24. Powers and duties.**

4 In addition to other powers and duties specified in this Chapter, the Commission
5 shall:

- 6 (1) Provide reasonable assistance to covered persons in complying with
7 this Chapter.
- 8 (2) Develop readily understandable forms, policies, rules, and procedures
9 to accomplish the purposes of the Chapter.
- 10 (3) Receive and review all statements of economic interest filed with the
11 Commission by prospective and actual covered persons and evaluate
12 whether (i) the statements conform to the law and the rules of the
13 Commission, and (ii) the financial interests and other information
14 reported reveals actual or potential conflicts of interest.
- 15 (4) Investigate alleged violations in accordance with G.S. 138A-25.
- 16 (5) Render advisory opinions in accordance with G.S. 138A-26.
- 17 (6) Initiate and maintain oversight of ethics educational programs for
18 covered persons and their staffs consistent with G.S. 138A-27.
- 19 (7) Conduct a continuing study of governmental ethics in the State and
20 propose changes to the General Assembly in the government process
21 and the law as are conducive to promoting and continuing high ethical
22 behavior by governmental officers and employees.
- 23 (8) Adopt rules to implement this Chapter, including those establishing
24 ethical standards and guidelines to be employed and adhered to by
25 public servants and legislators in attending to and performing their
26 duties.
- 27 (9) Report annually to the General Assembly and the Governor on the
28 Commission's activities and generally on the subject of public
29 disclosure, ethics, and conflicts of interest, including recommendations
30 for administrative and legislative action, as the Commission deems
31 appropriate.
- 32 (10) Perform other duties as may be necessary to accomplish the purposes
33 of this Chapter.

34 **"§ 138A-25. Investigations by the Commission.**

35 (a) Institution of Proceedings. – On its own motion, in response to a signed and
36 sworn complaint of any individual filed with the Commission, or upon the written
37 request of any public servant or legislator or any person responsible for the hiring,
38 appointing, or supervising of a public servant, the Commission shall conduct an
39 investigation into any of the following:

- 40 (1) The application or alleged violation of this Chapter.
- 41 (2) The application or alleged violation of rules adopted in accordance
42 with G.S. 138A-24.
- 43 (3) The alleged violation of the criminal law by a covered person in the
44 performance of that individual's official duties.

1 (b) Complaint. –

2 (1) A complaint filed under this Chapter shall state the name, address, and
3 telephone number of the person filing the complaint, the name and job
4 title or appointive position of the public servant or legislator against
5 whom the complaint is filed, and a concise statement of the nature of
6 the complaint and specific facts indicating that a violation of this
7 Chapter has occurred, the date the alleged violation occurred, and
8 either (i) that the contents of the complaint are within the knowledge
9 of the individual verifying the complaint, or (ii) the basis upon which
10 the individual verifying the complaint believes the allegations to be
11 true.

12 (2) Except as provided in subsection (c) of this section, a complaint filed
13 under this Chapter must be filed within one year of the date the
14 complainant knew or should have known of the conduct upon which
15 the complaint is based.

16 (3) The Commission may decline to accept or investigate any attempted
17 complaint that does not meet all of the requirements set forth in
18 subdivision (1) of this subsection, or the Commission may, in its sole
19 discretion, request additional information to be provided by the
20 complainant within a specified period of time of no less than seven
21 business days.

22 (4) In addition to subdivision (3) of this subsection, the Commission may
23 decline to accept or investigate a complaint if it determines that any of
24 the following apply:

25 a. The complaint is frivolous or brought in bad faith.

26 b. The individuals and conduct complained of have already been
27 the subject of a prior complaint.

28 c. The conduct complained of is primarily a matter more
29 appropriately and adequately addressed and handled by other
30 federal, State, or local agencies or authorities, including law
31 enforcement authorities. If other agencies or authorities are
32 conducting an investigation of the same actions or conduct
33 involved in a complaint filed under this section, the
34 Commission may stay its complaint investigation pending final
35 resolution of the other investigation.

36 (5) The Commission shall send a copy of the complaint to the public
37 servant or legislator who is the subject of the complaint within 30 days
38 of the filing.

39 (c) Investigation of Complaints by the Commission. – The Commission shall
40 investigate all complaints properly before the Commission in a timely manner. The
41 Commission shall initiate an investigation of a complaint within 60 days of the filing of
42 the complaint, or the complaint shall be dismissed. The Commission is authorized to
43 initiate investigations upon request of any member of the Commission if there is reason
44 to believe that a public servant or legislator has or may have violated this Chapter.

1 There is no time limit on Commission-initiated complaint investigations under this
2 section. In determining whether there is reason to believe that a violation has or may
3 have occurred, a member can take general notice of available information even if not
4 formally provided to the Commission in the form of a complaint. The Commission may
5 utilize the services of a hired investigator when conducting investigations.

6 (d) Investigation by the Commission of Matters Other Than Complaints. – The
7 Commission may investigate matters other than complaints properly before the
8 Commission under subsection (a) of this section. For any investigation initiated under
9 this subsection, the Commission may take any action it deems necessary or appropriate
10 to further compliance with this Chapter, including the initiation of a complaint, the
11 issuance of an advisory opinion under G.S. 138A-26, or referral to appropriate law
12 enforcement or other authorities pursuant to subsection (j)(1) of this section.

13 (e) Public Servant and Legislator Cooperation With Investigation. – Public
14 servants and legislators shall promptly and fully cooperate with the Commission in any
15 Commission-related investigation. Failure to cooperate fully with the Commission in
16 any investigation shall be grounds for sanctions as set forth in G.S. 138A-45.

17 (f) Dismissal of Complaint After Preliminary Inquiry. – If the Commission
18 determines at the end of its preliminary inquiry that (i) the individual who is the subject
19 of the complaint is not a public servant or legislator subject to the Commission's
20 jurisdiction and authority under this Chapter, or (ii) the complaint does not allege facts
21 sufficient to constitute a violation of this Chapter, the Commission shall dismiss the
22 complaint and provide written notice of the dismissal to the individual who filed the
23 complaint and the person against whom the complaint was filed.

24 (g) Notice. – If at the end of its preliminary inquiry, the Commission determines
25 to proceed with further investigation into the conduct of a public servant or legislator,
26 the Commission shall provide written notice to the individual who filed the complaint
27 and the public servant or legislator as to the fact of the investigation and the charges
28 against the public servant or legislator. The public servant or legislator shall be given an
29 opportunity to file a written response with the Commission. Upon the notice required
30 under this subsection being sent, the complaint and any written response shall be public
31 records, and all other documents offered at the hearing in conjunction with the
32 complaint shall be public records.

33 (h) Hearing. –

34 (1) The Commission shall give full and fair consideration to all complaints
35 and responses received against a public servant or legislator. If the
36 Commission determines that the complaint cannot be resolved without
37 a hearing, or if the public servant or legislator requests a public
38 hearing, a hearing shall be held.

39 (2) The Commission shall send a notice of the hearing to the complainant,
40 the public servant or legislator, and any other member of the public
41 requesting notice. The notice shall contain the time and place for a
42 hearing on the matter, which shall begin no less than 30 days and no
43 more than 90 days after the date of the notice.

44 (3) At any hearing held by the Commission:

- 1 a. Oral evidence shall be taken only on oath or affirmation.
2 b. The hearing shall be open to the public. The deliberations by
3 the Commission on a complaint may be held in closed session,
4 but the decision of the Commission shall be announced in open
5 session.
6 c. The public servant or legislator being investigated shall have
7 the right to present evidence, call and examine witnesses,
8 cross-examine witnesses, introduce exhibits, and be represented
9 by counsel.
- 10 (i) Settlement of Investigations. – The parties may meet by mutual consent
11 before the hearing to discuss the possibility of settlement of the investigation or the
12 stipulation of any issues, facts, or matters of law. Any proposed settlement of the
13 investigation is subject to the approval of the Commission.
- 14 (j) Disposition of Investigations. – Except as permitted under subsection (f) of
15 this section, after hearing, the Commission shall dispose of the matter in one or more of
16 the following ways:
- 17 (1) If the Commission finds substantial evidence of an alleged violation of
18 a criminal statute, the Commission shall refer the matter to the
19 Attorney General for investigation and referral to the district attorney
20 for possible prosecution.
- 21 (2) If the Commission finds that the alleged violation is not established by
22 clear and convincing evidence, the Commission shall dismiss the
23 complaint.
- 24 (3) If the Commission finds that the alleged violation of this Chapter is
25 established by clear and convincing evidence, the Commission shall do
26 one or more of the following:
- 27 a. Issue a public or private admonishment to the public servant
28 and notify the employing entity, if applicable.
- 29 b. Issue a public or private admonishment to the legislator and
30 notify the principal clerk of the house of which the legislator is
31 a member.
- 32 c. Refer the matter to the Governor, the employing entity that
33 appointed or employed the public servant or of which the public
34 servant is a member, or the General Assembly for constitutional
35 officers of the State, for appropriate action, and make
36 recommendations on sanctions under subsection (l) of this
37 section.
- 38 d. Refer the matter to the house of which the legislator is a
39 member for appropriate action, and make recommendations on
40 sanctions under subsection (l) of this section.
- 41 (k) Effect of Dismissal or Private Admonishment. – In the case of a dismissal or
42 private admonishment concerning a public servant or legislator, the Commission shall
43 retain its records or findings in confidence, unless the public servant or legislator under
44 inquiry requests in writing that the records and findings be made public. If the

1 Commission later finds that a public servant's or legislator's subsequent unethical
2 activities were similar to and the subject of an earlier private admonishment, then the
3 Commission may make public the earlier admonishment and the records and findings
4 related to it.

5 (l) Recommendations of Sanctions. – If the Commission determines, after proper
6 review and investigation, that action against a public servant or legislator is appropriate,
7 the Commission may recommend sanctions or issue rulings as it deems necessary or
8 appropriate to protect the public interest and ensure compliance with this Chapter. In
9 formulating appropriate sanctions, the Commission may consider the following factors:

10 (1) The public servant's prior experience in an agency or on a board and
11 prior opportunities to learn the ethical standards for public servants as
12 set forth in Article 2 of this Chapter, including those dealing with
13 conflicts of interest and appearances of conflicts of interest.

14 (2) The number of ethics violations.

15 (3) The severity of the ethics violations.

16 (4) Whether the ethics violations involve the public servant's or legislator's
17 financial interests or arise from an appearance of conflict of interest.

18 (5) Whether the ethics violations were inadvertent or intentional.

19 (6) Whether the public servant or legislator knew or should have known
20 that the improper conduct was a violation of this Chapter.

21 (7) Whether the public servant or legislator has previously been advised,
22 warned, or sanctioned by the Commission.

23 (8) Whether the conduct or situation giving rise to the ethics violation was
24 pointed out to the public servant or legislator in the Commission's
25 Statement of Economic Interest evaluation letter issued under
26 G.S. 138A-38(c).

27 (9) The public servant's or legislator's motivation or reason for the
28 improper conduct or actions, including whether the action was for
29 personal financial gain versus protection of the public interest.

30 If the Commission determines, after proper review and investigation, that sanctions
31 are appropriate, the Commission may recommend any action it deems necessary to
32 properly address and rectify any violation of this Chapter by a public servant or
33 legislator, including removal of the public servant or legislator from the public servant's
34 or legislator's State position. As it deems necessary and proper, the Commission may
35 make referrals to appropriate State officials, including law enforcement officials, for
36 investigation of wrongful conduct by State employees or appointees discovered during
37 the course of a complaint investigation, regardless of whether the individual is a public
38 servant or legislator under this Chapter. Nothing in this subsection is intended, and shall
39 not be construed, to give the Commission any independent civil, criminal, or
40 administrative investigative or enforcement authority over public servants, legislators,
41 or other State employees or appointees.

42 (m) Findings and Record. – The Commission shall render formal and binding
43 opinions of its findings and recommendations made pursuant to complaints or
44 Commission investigations. In all matters in which the complaint is a public record, the

1 Commission shall ensure that a complete record is made and preserved as a public
2 record.

3 (n) Authority of Employing Entity. – Any action or failure to act by the
4 Commission under this Chapter, except G.S. 138A-26, shall not limit any authority of
5 any of the following:

6 (1) Applicable employing entity to discipline the public servant.

7 (2) The house of which the legislator is a member to discipline the
8 legislator.

9 (o) Continuing Jurisdiction. – The Commission shall have continuing jurisdiction
10 to investigate possible criminal violations of this Chapter for a period of one year
11 following the date a person who was formerly a public servant or legislator ceases to be
12 a public servant or legislator.

13 (p) Confidentiality. – All motions, complaints, written requests, investigations,
14 and investigative materials shall be confidential and not matters of public record, except
15 as otherwise provided in this section.

16 (q) Subpoena Authority. – The Commission may petition the Superior Court of
17 Wake County for the approval to issue subpoenas and subpoenas duces tecum as
18 necessary to conduct investigations of alleged violations of this Chapter. The court shall
19 authorize subpoenas under this subsection when the court determines the subpoenas are
20 necessary for the enforcement of this Chapter. Subpoenas issued under this subsection
21 shall be enforceable by the court through contempt powers. Venue shall be with the
22 Superior Court of Wake County for any person covered by this Chapter, and personal
23 jurisdiction may be asserted under G.S. 1-75.4.

24 **"§ 138A-26. Advisory opinions.**

25 (a) At the request of any public servant or legislator, any individual not otherwise
26 the public servant who is responsible for the supervision or appointment of a person
27 who is a public servant, legal counsel for any public servant, any ethics liaison under
28 G.S. 138A-27, or any member of the Commission, the Commission shall render
29 advisory opinions on specific questions involving the meaning and application of this
30 Chapter and the public servant's or legislator's compliance therewith. The request shall
31 be in writing, electronic or otherwise, and relate prospectively to real or reasonably
32 anticipated fact settings or circumstances. The Commission shall issue advisory
33 opinions having prospective application only. Reliance upon a requested written
34 advisory opinion on a specific matter shall immunize the public servant or legislator, on
35 that matter, from both of the following:

36 (1) Investigation by the Commission.

37 (2) Any adverse action by the employing entity.

38 (b) Staff to the Commission may issue advisory opinions under rules adopted by
39 the Commission.

40 (c) The Commission shall interpret this Chapter by rules, and these
41 interpretations are binding on all public servants and legislators upon publication.

42 (d) The Commission shall publish its advisory opinions at least once a year.
43 These advisory opinions shall be edited for publication purposes as necessary to protect
44 the identities of the individuals requesting opinions.

1 (e) Except as provided under subsection (d) of this section, requests for advisory
2 opinions and advisory opinions issued under this section are confidential and not
3 matters of public record.

4 **"§ 138A-27. Ethics education program.**

5 (a) The Commission shall develop and implement an ethics education and
6 awareness program designed to instill in all public servants and their immediate staffs,
7 and legislators and legislative employees, a keen and continuing awareness of their
8 ethical obligations and a sensitivity to situations that might result in real or potential
9 conflicts of interest or appearances of conflicts of interest. The Commission shall make
10 basic ethics education and awareness presentations to all public servants and their
11 immediate staffs upon their election, appointment, or hiring, and shall offer periodic
12 refresher presentations as the Commission deems appropriate. Every public servant and
13 the immediate staff of every public servant shall participate in three hours of ethics
14 training per year as approved by the Commission within four months of the person's
15 election, appointment, or hiring, and shall attend a three-hour refresher ethics education
16 presentation annually thereafter in a manner as the Commission deems appropriate. The
17 Committee shall make a three-hour basic ethics education and awareness presentation to
18 all legislators and legislative employees upon their election or employment and shall
19 offer periodic refresher presentations as the Committee deems appropriate. Every
20 legislator and legislative employee shall participate in three hours of ethics training
21 approved by the Committee within three months of the person's election, appointment,
22 or employment in a manner as the Committee deems appropriate, and a three-hour
23 ethics refresher program annually thereafter. Upon request, the Commission shall assist
24 each agency in developing in-house education programs and procedures necessary or
25 desirable to meet the agency's particular needs for ethics education, conflict
26 identification, and conflict avoidance.

27 (b) Each agency head shall designate an ethics liaison who shall maintain active
28 communication with the Commission on all agency ethical issues. The ethics liaison
29 shall continuously assess and advise the Commission of any issues or conduct which
30 might reasonably be expected to result in a conflict of interest and seek advice and
31 rulings from the Commission as to their appropriate resolution.

32 (c) The Commission shall publish a newsletter containing summaries of the
33 Commission's opinions, policies, procedures, and interpretive bulletins as issued from
34 time to time. The newsletter shall be distributed to all public servants or legislators.
35 Publication under this subsection may be done electronically.

36 (d) The Commission shall assemble and maintain a collection of relevant State
37 laws, rules, and regulations that set forth ethical standards applicable to public servants
38 or legislators. They shall be made available electronically as resource material to public
39 servants and ethics liaisons, upon request.

40 (e) As used in this section, "immediate staff" means those individuals who report
41 directly to the public servant.

42 **"§ 138A-28. Duties of heads of State agencies.**

43 (a) The head of each State agency, including the chair of each board subject to
44 this Chapter, shall take an active role in furthering ethics in public service and ensuring

1 compliance with this Chapter. The head of each State agency and the chair of each
2 board shall make a conscientious, good-faith effort to assist public servants within the
3 agency or on the board in monitoring their personal, financial, and professional affairs
4 to avoid taking any action that results in a conflict of interest or the appearance of a
5 conflict.

6 (b) The head of each State agency, including the chair of each board subject to
7 this Chapter, shall maintain familiarity with and stay knowledgeable of the reports,
8 opinions, newsletters, and other communications from the Commission regarding ethics
9 in general and the interpretation and enforcement of this Chapter. The head of each
10 State agency and the chair of each board shall also maintain familiarity with and stay
11 knowledgeable of the Commission's reports, evaluations, opinions, or findings
12 regarding individual public servants in that person's agency or on that person's board, or
13 under that person's supervision or control, including all reports, evaluations, opinions, or
14 findings pertaining to actual or potential conflicts of interest.

15 (c) When an actual or potential conflict of interest is cited by the Commission
16 with regard to a public servant sitting on a board, the conflict shall be recorded in the
17 minutes of the applicable board and duly brought to the attention of the membership by
18 the board's chair as often as necessary to remind all members of the conflict and to help
19 ensure compliance with this Chapter.

20 (d) The head of each State agency, including the chair of each board subject to
21 this Chapter, shall periodically remind public servants under that person's authority of
22 the public servant's duties to the public under the ethical standards and rules of conduct
23 in this Chapter, including the duty of each public servant to continually monitor,
24 evaluate, and manage the public servant's personal, financial, and professional affairs to
25 ensure the absence of conflicts of interest or appearances of conflict.

26 (e) At the beginning of any official meeting of a board, the chair shall remind all
27 members of their duty to avoid conflicts of interest and appearances of conflict under
28 this Chapter. The chair also shall inquire as to whether there is any known conflict of
29 interest or appearance of conflict with respect to any matters coming before the board at
30 that time.

31 (f) The head of each State agency, including the chair of each board subject to
32 this Chapter, shall ensure that legal counsel employed by or assigned to their agency or
33 board are familiar with the provisions of this Chapter, including the Ethical Standards
34 for Public Servants set forth in Article 2 of this Chapter, and are available to advise
35 public servants on the ethical considerations involved in carrying out their public duties
36 in the best interest of the public. Legal counsel so engaged may consult with the
37 Commission, seek the Commission's assistance or advice, and refer public servants and
38 others to the Commission as appropriate.

39 (g) Taking into consideration the individual autonomy, needs, and circumstances
40 of each agency and board, the head of each State agency, including the chair of each
41 board subject to this Chapter, shall consider the need for the development and
42 implementation of in-house educational programs, procedures, or policies tailored to
43 meet the agency's or board's particular needs for ethics education, conflict identification,
44 and conflict avoidance. This includes the periodic presentation to all agency heads, their

1 chief deputies or assistants, other public servants under their supervision or control, and
2 members of boards, of the basic ethics education and awareness presentation outlined in
3 G.S. 138A-27 and any other workshop or seminar program the agency head or board
4 chair deems necessary in implementing this Chapter. Agency heads and board chairs
5 may request reasonable assistance from the Commission in complying with the
6 requirements of this subsection.

7 (h) As soon as reasonably practicable after the designation, hiring, or promotion
8 of their chief deputies, assistants, or other public servants under their supervision or
9 control, or learning of the appointment or election of other public servants to a board
10 covered under this Chapter, all agency heads and board chairs shall (i) notify the
11 Commission of such designation, hiring, promotion, appointment, or election and (ii)
12 provide these public servants with copies of this Chapter and all applicable financial
13 disclosure forms, if these materials and forms have not been previously provided to
14 these public servants by their appointing authorities. In order to avoid duplication of
15 effort, agency heads and board chairs shall coordinate this effort with the Commission's
16 staff.

17 **"§ 138A-29 through 34. [Reserved]"**

18 "Article 4.

19 "Public Disclosure of Economic Interests.

20 **"§ 138A-35. Purpose."**

21 The purpose of disclosure of the financial and personal interests by covered persons
22 is to assist covered persons and those persons who appoint, elect, hire, supervise, or
23 advise them identify and avoid conflicts of interest and potential conflicts of interest
24 between the covered person's private interests and the covered person's public duties. It
25 is critical to this process that current and prospective covered persons examine,
26 evaluate, and disclose those personal and financial interests that could be or cause a
27 conflict of interest or potential conflict of interest between the covered person's private
28 interests and the covered person's public duties. Covered persons must take an active,
29 thorough, and conscientious role in the disclosure and review process, including having
30 a complete knowledge of how the covered person's public position or duties might
31 impact the covered person's private interests. Covered persons have an affirmative duty
32 to provide any and all information that a reasonable person would conclude is necessary
33 to carry out the purposes of this Chapter and to fully disclose any conflict of interest or
34 potential conflict of interest between the covered person's public and private interests,
35 but the disclosure, review, and evaluation process is not intended to result in the
36 disclosure of unnecessary or irrelevant personal information.

37 **"§ 138A-36. Statement of economic interest; filing required."**

38 (a) Every covered person subject to this Chapter who is elected, appointed, or
39 employed, except for public servants whose annual compensation from the State is less
40 than forty thousand dollars (\$40,000), including one appointed to fill a vacancy in
41 elective office, except as otherwise filed under subsection (c) of this section, shall file a
42 statement of economic interest with the Commission prior to the covered person's initial
43 appointment, election, or employment and no later than March 15th of every year
44 thereafter. A prospective covered person required to file a statement under this Chapter

1 shall not be appointed, employed, or receive a certificate of election, prior to submission
2 by the Commission of the Commission's evaluation of the statement in accordance with
3 this Article. The requirement for an annual filing under this subsection also shall apply
4 to covered persons whose terms have expired but who continue to serve until the
5 person's replacement is appointed. Once a statement of economic interest is properly
6 completed and filed under this Article, the statement of economic interest does not need
7 to be supplemented or refiled prior to the next due date set forth in this subsection.

8 (b) Notwithstanding subsection (a) of this section, persons hired by, and
9 appointees of, constitutional officers of the State may file a statement of economic
10 interest within 30 days of their appointments or employment when the appointment or
11 employment is made during the first 60 days of the constitutional officer's initial term in
12 that constitutional office.

13 (c) A candidate for an office subject to this Article shall file the statement of
14 economic interest at the same place and in the same manner as the notice of candidacy
15 for that office is required to be filed under G.S. 163-106, within 10 days of the filing
16 deadline for the office the candidate seeks. A person who is nominated under
17 G.S. 163-114 after the primary and before the general election, and a person who
18 qualifies under G.S. 163-122 as an unaffiliated candidate in a general election, shall file
19 a statement of economic interest with the county board of elections of each county in
20 the senatorial or representative district. A person nominated under G.S. 163-114 shall
21 file the statement within three days following the person's nomination, or not later than
22 the day preceding the general election, whichever occurs first. A person seeking to
23 qualify as an unaffiliated candidate under G.S. 163-122 shall file the statement of
24 economic interest with the petition filed under that section. A person seeking to have
25 write-in votes counted for the person in a general election shall file a statement of
26 economic interest at the same time the candidate files a declaration of intent under
27 G.S. 163-123. A candidate of a new party chosen by convention shall file a statement of
28 economic interest at the same time that the president of the convention certifies the
29 names of its candidates to the State Board of Elections under G.S. 163-98.

30 (d) The State Board of Elections shall provide for notification of the statement of
31 economic interest requirements of this Article to be given to any candidate filing for
32 nomination or election to those offices subject to this Article at the time of the filing of
33 candidacy.

34 (e) The executive director of the State Board of Elections shall forward a
35 certified copy of the statement of economic interest to the Commission for evaluation.

36 (f) The Commission shall issue forms to be used for the statement of economic
37 interest and shall revise the forms from time to time as necessary to carry out the
38 purposes of this Chapter. Except as otherwise set forth in this section, the Commission
39 shall furnish to all other covered persons the appropriate forms needed to comply with
40 this Article.

41 **"§ 138A-37. Statements of economic interest as public records.**

42 The statements of economic interest filed by prospective public servants under this
43 Article for appointed or employed positions and written evaluations by the Commission
44 of these statements are not public records until the prospective public servant is

1 appointed or is employed by the State. All other statements of economic interest and all
2 other written evaluations by the Commission of those statements are public records.
3 After becoming public records, statements shall be made available for inspection and
4 copying by any person during normal business hours at the Commission's office.

5 **"§ 138A-38. Contents of statement.**

6 (a) Any statement of economic interest filed under this Article shall be on a form
7 prescribed by the Commission and sworn to by the covered person. Answers must be
8 provided to all questions. The form shall include the following information about the
9 covered person and the covered person's immediate family:

10 (1) The name, home address, occupation, employer, and business of the
11 person filing.

12 (2) A list of each asset and liability of whatever nature (including legal,
13 equitable, or beneficial interest) with a value of at least ten thousand
14 dollars (\$10,000) of the prospective or actual covered person, and the
15 covered person's spouse. This list shall include the following:

16 a. All real estate located in the State owned wholly or in part by
17 the covered person or the covered person's spouse, including
18 specific descriptions adequate to determine the location of each
19 parcel and the specific interest held by the covered person and
20 the spouse in each identified parcel.

21 b. Real estate that is currently leased or rented to the State.

22 c. Personal property sold to or bought from the State within the
23 preceding two years.

24 d. Personal property currently leased or rented to the State.

25 e. The name of each publicly owned company in which the value
26 of securities held exceeds ten thousand dollars (\$10,000).

27 f. The name of each nonpublicly owned company or business
28 entity in which the value of securities or other equity interests
29 held exceeds ten thousand dollars (\$10,000), including interests
30 in partnerships, limited partnerships, joint ventures, limited
31 liability companies or partnerships, and closely held
32 corporations. For each company or business entity listed under
33 this sub-subdivision, the filing covered person shall indicate
34 whether the listed company or entity owns securities or equity
35 interests exceeding a value of ten thousand dollars (\$10,000) in
36 any other companies or entities. If so, then the other companies
37 or entities shall also be listed with a brief description of the
38 business activity of each.

39 g. If the filing covered person or the members of the covered
40 person's immediate family are the beneficiaries of a vested trust
41 created, established, or controlled by the covered person, then
42 the name and address of the trustee and a description of the trust
43 shall be provided. To the extent such information is available to
44 the covered person, the statement also shall include a list of

- 1 businesses in which the trust has an ownership interest
2 exceeding ten thousand dollars (\$10,000).
- 3 h. The filing covered person shall make a good faith effort to list
4 any individual or business entity with which the filing covered
5 person, the covered person's extended family, or any business
6 with which the covered person or a member of the covered
7 person's extended family is associated, has a financial or
8 professional relationship provided (i) a reasonable person would
9 conclude that the nature of the financial or professional
10 relationship presents a conflict of interest or the appearance of a
11 conflict of interest for the covered person; or (ii) a reasonable
12 person would conclude that any other financial or professional
13 interest of the individual or business entity would present a
14 conflict of interest or appearance of a conflict of interest for the
15 covered person. For each individual or business entity listed
16 under this sub-subdivision, the filing covered person shall
17 describe the financial or professional relationship and provide
18 an explanation of why the individual or business entity has been
19 listed.
- 20 i. A list of all other assets and liabilities with a valuation of at
21 least ten thousand dollars (\$10,000), including bank accounts
22 and debts.
- 23 j. A list of each source (not specific amounts) of income
24 (including capital gains) shown on the most recent federal and
25 State income tax returns of the person filing where ten thousand
26 dollars (\$10,000) or more was received from that source.
- 27 k. A list of all nonpublicly owned businesses with which, during
28 the past five years, the covered person or the covered person's
29 immediate family has been associated, indicating the time
30 period of that association and the relationship with each
31 business as an officer, employee, director, business associate, or
32 owner. The list also shall indicate whether each does business
33 with, or is regulated by, the State and the nature of the business,
34 if any, done with the State.
- 35 l. A list of all gifts, and the sources of the gifts, of a value of more
36 than two hundred dollars (\$200.00) received during the 12
37 months preceding the date of the statement from sources other
38 than the covered person's extended family, and a list of all gifts,
39 and the sources of the gifts, valued in excess of one hundred
40 dollars (\$100.00) received from any source having business
41 with, or regulated by, the employing entity.
- 42 m. A list of all bankruptcies filed during the preceding five years
43 by the covered person, or any entity in which the covered
44 person has a controlling interest or was the chief executive

1 officer, the chief financial officer, or chief administrative
2 officer. A brief summary of the facts and circumstances
3 regarding each listed bankruptcy shall be provided.

4 n. A list of all directorships on all business boards of which the
5 covered person or the covered person's immediate family is a
6 member.

7 (3) A list of the covered person's or the covered person's immediate
8 family's memberships or other affiliations with, including offices held
9 in, societies, organizations, or advocacy groups, pertaining to subject
10 matter areas over which the covered person's agency or board may
11 have jurisdiction.

12 (4) In addition to the information required to be reported under
13 subdivisions (1), (2), and (3) of this subsection, the filing covered
14 person shall provide in the covered person's statement a list of any
15 felony indictments or convictions, or any other information that a
16 reasonable person would conclude is necessary either to carry out the
17 purposes of this Chapter or to fully disclose any potential conflict of
18 interest or appearance of conflict. If a covered person is uncertain of
19 whether particular information is necessary, then the covered person
20 shall consult the Commission for guidance.

21 (5) Each statement of economic interest shall contain sworn certification
22 by the filing covered person that the covered person has read the
23 statement and that, to the best of the covered person's knowledge and
24 belief, the statement is true, correct, and complete. The covered
25 person's sworn certification also shall provide that the covered person
26 has not transferred, and will not transfer, any asset, interest, or other
27 property for the purpose of concealing it from disclosure while
28 retaining an equitable interest therein.

29 (6) If the covered person believes a potential for conflict exists, the
30 covered person has a duty to inquire of the Commission as to that
31 potential conflict.

32 (b) All information provided in the statement of economic interest shall be
33 current as of the last day of December of the year preceding the date the statement of
34 economic interest was signed.

35 (c) The Commission shall prepare a written evaluation of each statement of
36 economic interest relative to conflicts of interest and potential conflicts of interest. The
37 Commission shall submit the evaluation to all of the following:

38 (1) The covered person who submitted the statement.

39 (2) The head of the agency in which the public servant serves.

40 (3) The Governor for gubernatorial appointees and employees in agencies
41 under the Governor's authority.

42 (4) The appointing or hiring authority for those public servants not under
43 the Governor's authority.

1 Commission shall exercise the discretion of whether to remove the offending public
2 servant.

3 (c) The willful failure of any public servant serving as a State employee to
4 comply with this Chapter is a violation of a written work order, thereby permitting
5 disciplinary action as allowed by the law, including termination from employment.
6 Except for employees of State departments headed by a member of the Council of State,
7 the Governor shall make all final decisions on the manner in which the offending public
8 servant shall be disciplined. For employees of State departments headed by a member of
9 the Council of State, the appropriate member of the Council of State shall make all final
10 decisions on the manner in which the offending public servant shall be disciplined.

11 (d) The willful failure of any constitutional officer of the State to comply with
12 this Chapter is malfeasance in office for purposes of G.S. 123-5.

13 (e) Nothing in this Chapter affects the power of the State to prosecute any person
14 for any violation of the criminal law.

15 (f) The State Ethics Commission may seek to enjoin violations of G.S. 138A-9."

16 **SECTION 2.** G.S. 150B-1 is amended by adding a new subsection to read:

17 "(g) Exemption of State Ethics Commission. – Except for G.S. 150B-21.20A and
18 Article 4 of this Chapter, no other provision of this Chapter applies to the State Ethics
19 Commission."

20 **SECTION 3.** Part 4 of Article 2A of Chapter 150B of the General Statutes is
21 amended by adding a new section to read:

22 "**§ 150B-21.20A. Publication of rules and advisory opinions of State Ethics**
23 **Commission.**

24 The Codifier of Rules shall publish unedited the rules and advisory opinions issued
25 by the State Ethics Commission under Chapter 138A of the General Statutes in the
26 North Carolina Register as they are received from the State Ethics Commission, in the
27 format required by the Codifier.

28 The Codifier of Rules shall publish unedited in the North Carolina Administrative
29 Code the rules as codified and issued by the State Ethics Commission under Chapter
30 138A of the General Statutes, in the format required by the Codifier."

31 **SECTION 4.** Article 14 of Chapter 120 is repealed.

32 **SECTION 5.** The authority, powers, duties and functions, records,
33 personnel, property, unexpended balances of appropriations, allocations, or other funds,
34 including the functions of budgeting and purchasing, of the North Carolina Board of
35 Ethics of the Office of the Governor are transferred to the State Ethics Commission
36 created in Section 1 of this act. The Director of the Budget shall resolve any disputes
37 arising out of this transfer.

38 **PART 2. STRENGTHEN LOBBYING LAWS.**

39 **SECTION 6.** Article 9A of Chapter 120 of the General Statutes is amended
40 to add a new section to read:

41 "**§ 120-47.7C. Prohibitions.**
42

1 ~~The following definitions shall apply in this Article:~~ As used in this Article, the
2 following terms mean:

- 3 (1) ~~The term "covered person" means a legislator, the Governor, or the~~
4 ~~Lieutenant Governor.~~ Covered person. – A legislator, legislative
5 employee, or public servant.
- 6 (1a) Advocacy day. – A day that any lobbyist's principal collectively
7 assembles its membership or employees and advocates for legislative
8 or executive action.
- 9 (1b) Constitutional officers of the State. – Officers whose offices are
10 established in Article III of the Constitution.
- 11 (1c) Executive action. – Any decision, including administration, approval,
12 disapproval, preparation, recommendation, the rendering of advice,
13 and investigation, made or contemplated in any proceeding,
14 application, submission, request for a ruling or other determination,
15 contract, claim, controversy, investigation, charge, or rule making.
- 16 (1a)(1d) ~~The term "expenditure" means any~~ Expenditure. – Any advance,
17 contribution, conveyance, deposit, distribution, payment, gift, retainer,
18 fee, salary, honorarium, reimbursement, loan, pledge or thing of value
19 greater than ten dollars (~~\$10.00~~), (\$10.00) per single calendar day or a
20 contract, agreement, promise or other obligation whether or not legally
21 enforceable, that directly or indirectly is made to, at the request of, for
22 the benefit of, or on the behalf of a covered person, legislative
23 employee, person or that person's immediate family member.
- 24 (1e) Extended family. – Spouse, descendant, ascendant, or sibling of the
25 covered person or descendant, ascendant, or sibling of the spouse of
26 the covered person.
- 27 (1b) ~~The term "executive lobbyist" means a lobbyist registered pursuant to~~
28 ~~Article 4C of Chapter 147 of the General Statutes.~~
- 29 (2),(3) ~~Repealed by Session Laws 1991, c. 740, s. 1.1.~~
- 30 (2a) Gift. – Anything of value without valuable consideration.
- 31 (3a) ~~The term "immediate family member" means spouse, descendant, or~~
32 ~~ascendant.~~ Immediate family member. – An unemancipated child of the
33 covered person residing in the household, and the covered person's
34 spouse, if not legally separated.
- 35 (4) ~~The term "legislative action" means the~~ Legislative action. – The
36 preparation, research, drafting, introduction, consideration,
37 modification, amendment, approval, passage, enactment, tabling,
38 postponement, defeat, or rejection of a bill, resolution, amendment,
39 motion, report, nomination, appointment, or other matter, whether or
40 not the matter is identified by an official title, general title, or other
41 specific reference, by the legislature or by a member or employee of
42 the legislature acting or purporting to act in an official capacity. It also
43 includes the consideration of any bill by the Governor for the
44 Governor's approval or veto under Article II, Section 22(1) of the

1 Constitution or for the Governor to allow the bill to become law under
2 Article II, Section 22(7) of the Constitution.

3 (4a) ~~The term "legislative employee" means employees~~Legislative
4 employee. – ~~Employees~~ and officers of the General Assembly.

5 (4b) ~~The term "legislative liaison personnel" means any~~Liaison personnel. –
6 Any State employee or officer whose principal duties, in practice or as
7 set forth in that person's job description, include lobbying the General
8 Assembly.~~Assembly or public servants.~~

9 (4c) ~~The term "legislative lobbyist" means any lobbyist for or against~~
10 ~~legislative action.~~

11 (4d) ~~The term "legislator" means a~~Legislator. – A member or presiding
12 officer of the General Assembly or Assembly, a person elected or
13 appointed a member or presiding officer of the General Assembly
14 prior to taking office~~office,~~ or a person having filed a notice of
15 candidacy for such office under G.S. 163-106 or Article 11 of Chapter
16 163 of the General Statutes.

17 (5) ~~The term "lobbying" means any~~Lobbying. – Any of the following:

18 a. Influencing or attempting to influence legislative or executive
19 action, or both, through direct communication or activities with
20 a covered ~~person, legislative employee,~~person or that person's
21 immediate family member.

22 b. Solicitation of others by ~~legislative~~ lobbyists or lobbyists'
23 principals to influence legislative or executive ~~action.~~action, or
24 both.

25 c. Developing goodwill through communications or activities,
26 including the building of relationships, with a covered ~~person,~~
27 ~~legislative employee,~~person or that person's immediate family
28 member with the intention of influencing current or future
29 legislative action, but does not include communications or
30 activities with a covered ~~person, legislative employee,~~person or
31 that person's immediate family member in a business, civic,
32 religious, fraternal, or commercial relationship which is not
33 connected to legislative or executive ~~action.~~action, or both.

34 (6) ~~The term "lobbyist" means an~~Lobbyist. – An individual who meets any
35 of the following criteria:

36 a. Is employed and receives compensation, or who contracts for
37 economic consideration, for the purpose of lobbying.

38 b. Represents another person and receives compensation for the
39 purpose of lobbying.

40 e. ~~Is legislative liaison personnel.~~

41 The term "lobbyist" shall not include those individuals who are
42 specifically exempted from this Article by G.S. 120-47.8. For the
43 purpose of determining whether an individual is a lobbyist under this
44 subdivision, reimbursement of actual travel and subsistence expenses

1 shall not be considered compensation; provided, however, that
2 reimbursement in the ordinary course of business of these expenses
3 shall be considered compensation if a significant part of the
4 individual's duties involve lobbying before the General
5 ~~Assembly.~~Assembly or public servants.

6 (7) ~~The terms "lobbyist's principal" and "principal" mean the~~Lobbyist
7 principal and principal. – The person on whose behalf the legislative
8 lobbyist lobbies. In the case where a lobbyist is compensated by a law
9 firm, consulting firm, or other entity retained by a person for
10 legislative lobbying, the principal is the person whose interests the
11 lobbyist represents in lobbying. In the case of a lobbyist employed or
12 retained by an association or other organization, the lobbyist's
13 principal is the association or other organization, not the members of
14 the association or other organization.

15 (7a) ~~The term "news medium" means mainstream~~News medium. –
16 Mainstream media providers whose sole purpose is to report events
17 and that does not involve research or advocacy.

18 (8) ~~The term "person" means any~~Person. – Any individual, firm,
19 partnership, committee, association, corporation, business entity, or
20 any other organization or group of persons which has an independent
21 legal existence.

22 (8a) Public event. – Either of the following:

- 23 a. An organized gathering of individuals open to the general
24 public or to which a legislator or legislative employee is invited
25 along with the entire membership of the House, Senate, a
26 committee, a subcommittee, a county legislative delegation, a
27 joint committee, or legislative caucus and which at least 10
28 employees or members of the principal actually attend.
29 b. An organized gathering of individuals open to the general
30 public or to which at least 10 public servants are invited to
31 attend and at least 10 employees or members of the principal
32 actually attend.

33 (8b) Public servant. – All of the following:

- 34 a. Constitutional officers of the State, persons elected or appointed
35 as a Constitutional officer of the State prior to taking office, or a
36 person having filed a notice of candidacy for such office under
37 G.S. 163-106 or Article 11 of Chapter 163 of the General
38 Statutes.
39 b. Employees of the Office of the Governor.
40 c. Heads of all principal State departments, as set forth in
41 G.S. 143B-6, who are appointed by the Governor.
42 d. The chief deputy or chief administrative assistant of each
43 person designated under sub-subdivisions a. and c. of this
44 subdivision.

- 1 e. Confidential assistants and secretaries as defined in
 2 G.S. 126-5(c)(2), to persons designated under sub-subdivisions
 3 a., c., and d. of this subdivision.
- 4 f. Employees in exempt positions as defined in G.S. 126-5(b) and
 5 employees in exempt positions designated in accordance with
 6 G.S. 126-5(d)(1), (2), or (2a), and confidential secretaries to
 7 these individuals.
- 8 g. Any other employees or appointees in the principal State
 9 departments as may be designated by the Governor to the extent
 10 that the designation does not conflict with the State Personnel
 11 Act.
- 12 h. All voting members of boards, including ex officio members
 13 and members serving by executive, legislative, or judicial
 14 branch appointment.
- 15 i. For The University of North Carolina, the voting members of
 16 the Board of Governors of The University of North Carolina,
 17 the president, the vice-presidents, and the chancellors, the
 18 vice-chancellors, and voting members of the boards of trustees
 19 of the constituent institutions.
- 20 j. For the North Carolina Community College System, the voting
 21 members of the State Board of Community Colleges, the
 22 President and chief financial officer of the North Carolina
 23 Community College System, the president, chief financial
 24 officer and chief administrative officer of each community
 25 college, and voting members of the boards of trustees of each
 26 community college.
- 27 k. Members of the Commission.
- 28 l. Persons under contract with the State working in or against a
 29 position included under this subdivision.
- 30 (9) ~~The General Assembly is in "regular session" from the~~ In regular
 31 session. – The date set by law or resolution that the General Assembly
 32 convenes until the General Assembly either:
- 33 a. Adjourns sine die; or
- 34 b. Recesses or adjourns for more than 10 days.

35 **"§ 120-47.2. Registration procedure.**

36 (a) ~~A legislative lobbyist shall file a registration statement with the Secretary of~~
 37 ~~State in a manner prescribed by the Secretary before engaging in any lobbying. It shall~~
 38 ~~be unlawful for a person to lobby without registering unless exempted by this Article. A~~
 39 ~~lobbyist shall file a separate registration statement for each principal the lobbyist~~
 40 ~~represents. The registration shall indicate whether it is registration as a legislative~~
 41 ~~lobbyist, executive lobbyist, or both, and a separate registration fee shall be paid for~~
 42 ~~each separate type of registration.~~

43 (b) The form of the registration shall be prescribed by the Secretary of State and
 44 shall include the registrant's full name, firm, complete address and telephone number;

1 the registrant's place of business; the full name, complete address and telephone number
2 of each person by whom the registrant is employed or retained; and a general
3 description of the matters on which the registrant expects to act as a ~~legislative~~-lobbyist.
4 The Secretary of State shall make available as soon as practicable the registrations of
5 the lobbyists and lobbyists' principals in an electronic, searchable format.

6 (c) Each ~~legislative~~-lobbyist shall file an amended registration form with the
7 Secretary of State no later than 10 business days after any change in the information
8 supplied in the ~~legislative~~-lobbyist's last registration under subsection (b). Each
9 supplementary registration shall include a complete statement of the information that
10 has changed.

11 (d) Within 20 days after the convening of each session of the General Assembly,
12 the Secretary of State shall furnish each member of the General ~~Assembly~~-Assembly,
13 Constitutional officers of the State, the head of each principal department of the
14 Executive Branch, and the State Legislative Library a list of all persons who have
15 registered as ~~executive or legislative~~-lobbyists and whom they represent. ~~Within 20 days~~
16 ~~after the beginning of the term of a Governor, the Secretary of State shall furnish the~~
17 ~~Governor, each other member of the Council of State, the head of each principal~~
18 ~~department of the Executive Branch, and the State Legislative Library a list of all~~
19 ~~persons who have registered as executive or legislative lobbyists and whom they~~
20 ~~represent.~~A supplemental list of ~~legislative~~-lobbyists shall be furnished periodically
21 each 20 days ~~thereafter as the session progresses.~~ while the General Assembly is in
22 session, and every 60 days thereafter. ~~A supplemental list of executive lobbyists shall be~~
23 ~~furnished periodically each 60 days thereafter.~~ For each special session of the General
24 Assembly, a supplemental list of ~~legislative~~-lobbyists shall be furnished to the State
25 Legislative Library. All lists required by this section may be furnished electronically.

26 (e) Each registration statement of a ~~legislative~~-lobbyist required under this
27 Article shall be effective from the date of filing until January 1 of the following year.
28 The ~~legislative~~-lobbyist shall file a new registration statement after that date, and the
29 applicable fee shall be due and payable.

30 **"§ 120-47.3. Registration fee.**

31 A fee of one hundred dollars (\$100.00) is due and payable to the Secretary of State
32 by either the lobbyist or the lobbyist's principal at the time of each lobbyist registration.
33 Fees so collected shall be deposited in the General Fund of the State. The Secretary of
34 State shall allow fees required under this section to be paid electronically but may not
35 require the fees to be paid electronically. The Secretary of State shall adopt rules
36 providing for the waiver or reduction of the fees required by this section in cases of
37 hardship.

38 **"§ 120-47.4. Authorization from lobbyist's principal; fee from principal.**

39 (a) Each ~~legislative~~-lobbyist or lobbyist's principal shall file with the Secretary of
40 State within 10 business days after the ~~legislative~~-lobbyist's registration a written
41 authorization signed by the lobbyist's principal authorizing the lobbyist to represent the
42 principal.

43 (b) The form of the authorization shall be prescribed by the Secretary of State
44 and shall include the lobbyist's principal's full name, complete address and telephone

1 number, name and title of the official signing for the lobbyist's principal, and the name
2 of each lobbyist registered to represent the lobbyist's principal. The Secretary of State
3 shall make available as soon as practicable the authorization of the lobbyists' principals
4 in an electronic, searchable format.

5 (c) An amended authorization shall be filed with the Secretary of State no later
6 than 10 days after any change in the information supplied for the lobbyist's principal on
7 the previous authorization. Each supplementary authorization shall include a complete
8 statement of the information that has changed.

9 (d) Except as provided for in subsection (e) of this section, a fee of one hundred
10 dollars (\$100.00) is due and payable to the Secretary of State at the time the lobbyist's
11 principal's first authorization statement is filed each calendar year for a legislative
12 lobbyist. ~~The fee for the legislative lobbyist's authorization shall be seventy-five dollars~~
13 ~~(\$75.00) if an authorization for the principal to be represented by an executive lobbyist~~
14 ~~is filed at the same time. No additional fee is due for additional authorizations filed for~~
15 ~~legislative lobbyists.~~

16 (e) The Secretary of State shall adopt rules providing for the waiver or reduction
17 of the fees required by fee in subsection (d) of this section. The rules shall provide that
18 the fees be reduced to a total of twenty-five dollars (\$25.00) if the lobbyist's principal
19 had annual revenues in its most recent fiscal year of three hundred thousand dollars
20 (\$300,000) or less and is represented by no more than two different lobbyists. This
21 reduced fee covers authorizations filed for the principal's legislative and executive
22 lobbyists.

23 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

24 (a) No person shall act as a legislative lobbyist for compensation that is
25 dependent upon the result or outcome of any legislative action.

26 (b) ~~No legislative lobbyist or legislative lobbyist's principal person shall attempt~~
27 ~~to influence the action of any covered person by the promise of financial support of the~~
28 ~~covered person's candidacy, or by threat of financial support in opposition to the~~
29 ~~covered person's candidacy in any future election.~~

30 **"§ 120-47.5A. Certain gifts by lobbyists and lobbyist's principals prohibited;**
31 **Exemptions and inclusions for reporting purposes.exemptions.**

32 (a) No lobbyist or lobbyist's principal may give a gift to a covered person.

33 ~~(a)(a1) For purposes of G.S. 120-47.6 and G.S. 120-47.7, the following expenditures~~
34 ~~need not be reported: Subsection (a) of this section shall not apply to:~~

- 35 (1) ~~Gifts between an immediate family member or person who is the~~
36 ~~stepchild, sibling, mother in law, father in law, son in law,~~
37 ~~daughter in law, or members of the household of the covered person or~~
38 ~~legislative employee.~~
- 39 (2) ~~Lawful campaign contributions.~~
- 40 (3) ~~Commercially available loans made on terms not more favorable than~~
41 ~~generally available to the public in the normal course of business if not~~
42 ~~made for the purpose of lobbying.~~

- 1 (4) ~~Contractual arrangements or business relationships or arrangements~~
2 ~~made in the normal course of business if not made for the purpose of~~
3 ~~lobbying.~~
- 4 (5) ~~The cost of attendance or participation provided by the sponsoring~~
5 ~~entity of lodging, and of food and beverages consumed, at events~~
6 ~~sponsored by or in conjunction with a civic, charitable, community, or~~
7 ~~diplomatic event if the activity or event does not last longer than three~~
8 ~~hours.~~
- 9 (6) ~~Academic scholarships made on terms not more favorable than~~
10 ~~scholarships generally available to the public.~~
- 11 (1) Meals and beverages for immediate consumption in connection with
12 public events.
- 13 (2) Nonmonetary items, other than food or beverages, with a value not to
14 exceed ten dollars (\$10.00) provided by a single donor during a single
15 calendar day.
- 16 (3) Informational materials relevant to the duties of the covered person.
- 17 (4) Reasonable actual expenses for food, registration, travel, and lodging
18 of the covered person for a meeting at which the covered person
19 participates in a panel or speaking engagement at the meeting related
20 to the public servant's duties and when expenses are incurred on the
21 actual day of participation in the engagement or incurred within a
22 24-hour time period before or after the engagement.
- 23 (5) Entertainment or recreation provided in connection with a public event
24 sponsored by a charitable organization as defined under G.S. 1-539.11.
- 25 (6) Items or services given in connection with a state, national, or regional
26 organization in which a covered person or a covered person's agency is
27 a member, by virtue of the person's public position.
- 28 (7) Items and services given relating to an educational conference or
29 meeting.
- 30 (8) A plaque or similar nonmonetary memento recognizing individual
31 services in a field or specialty or to a charitable cause.
- 32 (9) Gifts given to the State.
- 33 (10) Anything generally available or distributed to the general public or all
34 other State employees.
- 35 (11) Anything for which fair market value is paid.
- 36 (12) Commercially available loans made on terms not more favorable than
37 generally available to the public in the normal course of business if not
38 made for the purpose of lobbying.
- 39 (13) Contractual arrangements or business relationships or arrangements
40 made in the normal course of business if not made for the purpose of
41 lobbying.
- 42 (14) Academic scholarships made on terms not more favorable than
43 scholarships generally available to the public.

- 1 (15) Political contributions properly given and reported as required under
2 Article 22A of Chapter 163 of the General Statutes.
- 3 (16) Gifts given as a member of the covered person's extended family, or a
4 member of the same household of the covered person, or gifts given in
5 conjunction with a marriage, birth, adoption, or death.
- 6 (17) Things of monetary value given to a public servant valued in excess of
7 ten dollars (\$10.00) where the thing of monetary value is entertainment
8 or related expenses associated with the public business of industry
9 recruitment, promotion of international trade, or the promotion of
10 travel and tourism, and the public servant is responsible for conducting
11 the business on behalf of the State, provided all the following
12 conditions apply:
- 13 a. The public servant did not solicit the thing of value, and the
14 public servant did not accept the thing of value in the
15 performance of the public servant's official duties.
- 16 b. The public servant reports electronically to the Commission
17 within 30 days of receipt of the thing of value. The report shall
18 include a description and value of the thing of value and a
19 description how the thing of value contributed to the public
20 business of industry recruitment, promotion of international
21 trade, or the promotion of travel and tourism. This report shall
22 be posted to the Commission's public Web site.
- 23 c. A tangible thing of value in excess of ten dollars (\$10.00), other
24 than meals or beverages, shall be turned over as State property
25 to the Department of Commerce within 30 days of receipt.
- 26 (18) Things of monetary value of personal property valued at less than one
27 hundred dollars (\$100.00) given to a public servant in the commission
28 of the public servant's official duties if the gift is given to the public
29 servant as a personal gift in another country as part of an overseas
30 trade mission, and the giving and receiving of such personal gifts are
31 considered a customary protocol in the other country.
- 32 (b) For purposes of G.S. 120-47.6 and G.S. 120-47.7, all expenditures made for
33 the purpose of lobbying shall be reported, including the following:
- 34 (1) Expenditures benefiting or made on behalf of a covered person, a
35 ~~legislative employee~~, or those persons' immediate family members, in
36 the regular course of that person's ~~nonlegislative~~ employment.
- 37 (2) Contractual arrangements or direct business relationships between a
38 ~~legislative~~ lobbyist or ~~legislative~~ lobbyist's principal and a covered
39 person, ~~legislative employee~~, or that person's immediate family
40 member, in effect during the reporting period or the previous 12
41 months.
- 42 (3) Expenditures reimbursed to a ~~legislative~~ lobbyist in the ordinary
43 course of business by the lobbyist's principal or other employer.

1 Expenditures reimbursed by the lobbyist's principal or other employer
2 are reported only by the lobbyist.

3 (4) Expenditures for items exempted by subsection (a1) of this section.

4 (e) ~~For reporting purposes of G.S. 120-47.6 and G.S. 120-47.7, legislative~~
5 ~~lobbying with respect to only the legislative actions of the Governor and Lieutenant~~
6 ~~Governor shall be reported.~~

7 (d) The offering or giving of a gift in compliance with this Article without
8 corrupt intent shall not constitute a violation of G.S. 14-217 or G.S. 14-218.

9 **"§ 120-47.6. Statements of legislative lobbyist's lobbying expenditures required.**

10 (a) ~~Each legislative lobbyist shall file monthly~~ quarterly expenditure reports
11 under oath with the Secretary of State, in a manner prescribed by the Secretary of State,
12 which may include electronic reports, with respect to each lobbyist's ~~principal, while the~~
13 ~~General Assembly is in regular session, and quarterly thereafter.~~ principal. The
14 expenditure report shall include all expenditures during the reporting period and shall be
15 due 10 business days after the end of the reporting period. The ~~legislative~~ lobbyist shall
16 file ~~expense~~ expenditure reports whether or not expenditures are made.

17 (a1) In addition to the reports required by subsection (a) of this section, each
18 lobbyist incurring expenditures in a month in which the General Assembly is in regular
19 session with respect to lobbying legislators and legislative employees shall file a
20 monthly expenditure report. The monthly expenditure report shall contain information
21 required by this section with respect to all lobbying of legislators and legislative
22 employees, and is due within 10 business days of the end of the month. The information
23 on the monthly expenditure report shall also be included in each quarterly report
24 required by subsection (a) of this section.

25 (b) Each expenditure report shall set forth the fair market ~~value,~~ value or face
26 value if shown, date, a description of the expenditure, name and address of the payee, or
27 beneficiary, and name of any covered person, ~~legislative employee,~~ or that person's
28 immediate family member benefiting from the expenditure. Such expenditures shall be
29 reported using the following categories:

30 (1) Transportation and lodging.

31 (2) Entertainment, food, and beverages.

32 (3) Meetings and events.

33 (4) Gifts.

34 (5) Other expenditures.

35 (6) Solicitation of others to lobby, including if such expenditures are
36 incurred in connection or in concert with other reportable
37 expenditures.

38 ~~In addition, expenses for the solicitation of others to lobby, whether or not a covered~~
39 ~~person, legislative employee, or family member is affected, shall be reportable if such~~
40 ~~expenses are incurred in connection, or in concert, with other expenditures reportable~~
41 ~~under this subsection.~~

42 (c) All reports shall be in the form prescribed by the Secretary of State and shall
43 be open to public inspection upon filing. When more than 15 covered persons benefit
44 from an expenditure, no names of individuals need be reported provided that the report

1 identifies the approximate number of covered persons benefiting and, with particularity,
2 the basis for their selection, including the name of the legislative body, committee,
3 caucus, or other group whose membership list is a matter of public record in accordance
4 with G.S. 132-1 or including a description of the group that clearly distinguishes its
5 purpose or composition from the general membership of the General Assembly. The
6 approximate number of ~~legislative employees and~~ immediate family members of
7 covered persons ~~and legislative employees~~ who benefited from the expenditure shall be
8 listed separately.

9 (d) When a ~~legislative~~ lobbyist fails to file an expenditure report as required in
10 this section, the Secretary of State shall send a certified or registered letter advising the
11 ~~legislative~~ lobbyist of the delinquency and the penalties provided by law. Within 20
12 days of the receipt of the letter, the ~~legislative~~ lobbyist shall deliver or post by United
13 States mail to the Secretary of State the required report and an additional late filing fee
14 in an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

15 (e) Filing of the required report and payment of the additional fee within the time
16 extended shall constitute compliance with this section. Failure to file an expenditure
17 report in one of the manners prescribed in this section shall result in revocation of any
18 and all registrations of a legislative lobbyist under this Article. No ~~legislative~~ lobbyist
19 may register or reregister under this Article until the ~~legislative~~ lobbyist has fully
20 complied with this section.

21 (f) Appeal of a decision by the Secretary of State under this section shall be in
22 accordance with Article 3 of Chapter 150B of the General Statutes.

23 (g) The Secretary of State may adopt rules to facilitate complete and timely
24 disclosure of expenditures, including the format of reports and additional categories of
25 information, and to protect the addresses of payees under protective order issued
26 pursuant to Chapter 50B of the General Statutes or participating in the Address
27 Confidentiality Program pursuant to Chapter 15C of the General Statutes. The Secretary
28 of State shall not impose any penalties or late filing fees upon a ~~legislative~~ lobbyist for
29 subsequent failures to comply with the requirements of this section if the Secretary of
30 State failed to provide ~~to~~ the lobbyist with required notifications of the initial violation.
31 This provision shall not apply to a failure by the lobbyist to file an expenditure report in
32 a timely manner.

33 **"§ 120-47.7. Statements of ~~legislative~~ lobbyist's principal lobbying expenditures**
34 **required.**

35 (a) Each ~~legislative~~ lobbyist's principal shall file ~~monthly~~ quarterly expenditure
36 reports under oath with the Secretary of State, in a manner prescribed by the Secretary
37 of State, which may include electronic reports, ~~while the General Assembly is in regular~~
38 ~~session, and quarterly thereafter~~ reports. The expenditure report shall include all
39 expenditures during the reporting period and shall be due 10 business days after the end
40 of the reporting period. The lobbyist's principal shall file the expenditure reports
41 whether or not expenditures are made during a reporting period.

42 (a1) In addition to the reports required by subsection (a) of this section, each
43 lobbyist's principal incurring expenditures in a month in which the General Assembly is
44 in regular session with respect to lobbying legislators and legislative employees, other

1 than lobbyist's compensation, shall file a monthly expenditure report. The monthly
2 expenditure report shall contain information required by this section with respect to all
3 lobbying of legislators and legislative employees, and is due within 10 business days of
4 the end of the month. The information on the monthly expenditure report shall also be
5 included in each quarterly report required by subsection (a) of this section.

6 (b) Each expenditure report shall set forth the fair market ~~value,~~value or face
7 value if shown, date, a description of the expenditure, name and address of the payee, or
8 beneficiary, and name of any covered person, ~~legislative employee,~~ or that person's
9 immediate family member affected by the expenditure. Such expenditures shall be
10 reported using the following categories:

- 11 (1) Transportation and lodging.
- 12 (2) Entertainment, food, and beverages.
- 13 (3) Meetings and events.
- 14 (4) Gifts.
- 15 (5) Other expenditures.
- 16 (6) Solicitation of others to lobby, including if such expenditures are
17 incurred in connection or in concert with other expenditures reportable
18 under this Article.
- 19 (7) Compensation paid to all lobbyists during the reporting period. If a
20 legislative lobbyist is a full-time employee of the lobbyist's principal,
21 or is compensated by means of an annual fee or retainer, the lobbyist's
22 principal shall estimate and report the portion of the salary, fee, or
23 retainer that compensates for lobbying.
- 24 (8) Expenditures reimbursed or paid to lobbyists for lobbying that are not
25 reported on the lobbyist's report, with an itemized description of those
26 expenditures.

27 ~~In addition, expenses for the solicitation of others to lobby, whether or not a covered~~
28 ~~person, legislative employee, or family member is affected, shall be reportable if such~~
29 ~~expenses are incurred in connection, or in concert, with other expenditures reportable~~
30 ~~under this subsection.~~

31 ~~In addition, the compensation paid or agreed to be paid to all legislative lobbyists~~
32 ~~shall be reported, whether or not a covered person, legislative employee, or family~~
33 ~~member is affected. If a legislative lobbyist is a full time employee of the lobbyist's~~
34 ~~principal, or is compensated by means of an annual fee or retainer, the lobbyist's~~
35 ~~principal shall estimate and report the portion of the salary, fee, or retainer that~~
36 ~~compensates for lobbying. The lobbyist's principal's expenditure report shall include an~~
37 ~~itemized description of all expenditures reimbursed or paid to legislative lobbyists for~~
38 ~~lobbying that are not reported on the legislative lobbyists' reports.~~

39 (c) All reports shall be in the form prescribed by the Secretary of State and open
40 to public inspection upon filing. When more than 15 covered persons benefit from an
41 expenditure, no names of individuals need be reported provided that the report identifies
42 the approximate number of covered persons benefiting and, with particularity, the basis
43 for their selection, including the name of the legislative body, committee, caucus, or
44 other group whose membership list is a matter of public record in accordance with

1 G.S. 132-1 or including a description of the group that clearly distinguishes its purpose
2 or composition from the general membership of the General Assembly. The
3 approximate number of ~~legislative employees and immediate family members of~~
4 covered persons ~~and legislative employees who~~ benefited from the expenditure shall be
5 listed separately.

6 (d) When a lobbyist's principal fails to file an expenditure report as required in
7 this section, the Secretary of State shall send a certified or registered letter advising the
8 lobbyist's principal of the delinquency and the penalties provided by law. Within 20
9 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United
10 States mail to the Secretary of State the required report and a late filing fee in an amount
11 equal to the late filing fee under G.S. 163-278.34(a)(2).

12 (e) Filing of the required report and payment of the late fee within the time
13 extended shall constitute compliance with this section. Failure to file an expenditure
14 report in one of the manners prescribed in this section shall result in revocation of any
15 and all registrations of a lobbyist's principal under this Article. No lobbyist's principal
16 may register or reregister under this Article until the lobbyist's principal has fully
17 complied with this section.

18 (f) Appeal of a decision by the Secretary of State under this section shall be in
19 accordance with Article 3 of Chapter 150B of the General Statutes.

20 (g) The Secretary of State may adopt rules to facilitate complete and timely
21 disclosure of expenditures, including the format of reports and additional categories of
22 information, and to protect the addresses of payees under protective order issued
23 pursuant to Chapter 50B of the General Statutes or participating in the Address
24 Confidentiality Program pursuant to Chapter 15C of the General Statutes. The Secretary
25 of State shall not impose any penalties or late filing fees upon a principal for subsequent
26 failures to comply with the requirements of this section if the Secretary of State failed to
27 provide to the lobbyist's principal with required notifications of the initial violation.
28 This provision shall not apply to a failure by the principal to file an expenditure report
29 in a timely manner.

30 "§ 120-47.7A. Reserved for future codification purposes.

31 "§ 120-47.7B. Powers and duties of the Secretary of State.

32 (a) The Secretary of State shall perform systematic reviews of reports required to
33 be filed under G.S. 120-47.6 and G.S. 120-47.7 on a regular basis to assure complete
34 and timely disclosure of allowable expenditures.

35 (b) The Secretary of State may petition the Superior Court of Wake County for
36 the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
37 investigations of violations of this Article. The court shall authorize subpoenas under
38 this subsection when the court determines they are necessary for the enforcement of this
39 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court
40 through contempt powers. Venue shall be with the Superior Court of Wake County for
41 any nonresident person, or that person's agent, who makes a reportable expenditure
42 under this Article, and personal jurisdiction may be asserted under G.S. 1-75.4.

1 (c) Complaints of violations of this Article and all other records accumulated in
2 conjunction with the investigation of these complaints shall be considered records of
3 criminal investigations under G.S. 132-1.4.

4 **"§ 120-47.7C. Prohibitions.**

5 (a) No member or former member of the General Assembly may be employed as
6 ~~an executive or legislative~~ a lobbyist by a lobbyist's principal to lobby as defined in this
7 Article ~~or Article 4C of Chapter 147 of the General Statutes~~ within six months one year
8 after the end of that member's service in the General Assembly.

9 (b) No person serving as ~~Governor, as a member of the Council of State,~~ a
10 Constitutional officer of the State or as a head of a principal State department listed in
11 G.S. 143B-6 may be employed as ~~an executive or legislative~~ a lobbyist by a lobbyist's
12 principal to lobby as defined in this Article ~~or Article 4C of Chapter 147 of the General~~
13 ~~Statutes~~ within six months one year after separation from employment or leaving office.

14 (c) No individual registered as a ~~legislative~~ lobbyist shall serve as a campaign
15 treasurer ~~under Chapter 163 of the General Statutes~~ as defined in G.S. 163-278.6(19)
16 for a campaign for election as a member of the ~~General Assembly~~ Assembly or a
17 Constitutional officer of the State.

18 (d) A ~~legislative or executive~~ lobbyist shall not be eligible for appointment by a
19 State official to any body created under the laws of this State that has regulatory
20 authority over the activities of a person that the lobbyist currently represents or has
21 represented within 60 days after the expiration of the lobbyist's registration representing
22 that person. Nothing herein shall be construed to prohibit appointment by any unit of
23 local government.

24 (e) No ~~legislative or executive~~ lobbyist or another acting on the lobbyist's behalf
25 shall permit a covered ~~person~~ person, ~~legislative employee, executive branch officer,~~ or
26 that person's immediate family member, to use the cash or credit of the lobbyist for the
27 purpose of lobbying unless the lobbyist is in attendance at the time of the expenditure.

28 **"§ 120-47.8. Persons exempted from provisions of Article.**

29 Except as otherwise provided in this Article, the provisions of this Article shall not
30 be construed to apply to any of the ~~following~~ following lobbying activities:

31 (1) An individual solely engaged in expressing a personal opinion or
32 stating facts or recommendations on legislative matters to members of
33 the General Assembly and not acting as a legislative lobbyist.

34 (2) A person appearing before a ~~legislative committee~~ committee,
35 commission, board, council, or other collective body whose
36 membership includes one or more covered persons at the invitation or
37 request of the committee or a member thereof and who engages in no
38 further activities as a legislative lobbyist.

39 (3) a. A duly elected or appointed official or employee of the State,
40 the United States, a county, municipality, school district or
41 other governmental agency, when appearing solely in
42 connection with matters pertaining to the office and public
43 duties.

1 b. Notwithstanding the persons exempted in this Article, the
2 ~~Governor, Council of State, Constitutional officers of the State~~
3 and all appointed heads of State departments, agencies and
4 institutions, shall designate all authorized official legislative
5 liaison personnel and shall file and maintain current lists of
6 designated ~~legislative~~ liaison personnel with the Secretary of
7 State.

8 (4) A person performing professional services in drafting ~~bills~~ bills, or in
9 advising and rendering opinions to clients, or to covered persons on
10 behalf of clients, as to the construction and effect of proposed or
11 pending ~~legislation~~ legislative or executive action where the
12 professional services are not otherwise connected with the legislative
13 or executive action.

14 (5) A person who owns, publishes or is employed by any news medium
15 while engaged in the acquisition or dissemination of news on behalf of
16 the news medium.

17 (6) Repealed by Session Laws 1991, c. 740, s. 1.1.

18 (7) ~~Covered persons and legislative employees~~ persons while acting in
19 their official capacity.

20 (8) A person responding to inquiries from a ~~member of the General~~
21 ~~Assembly or a legislative employee~~ covered person and who engages
22 in no further activities as a ~~legislative~~ lobbyist in connection with that
23 or any other legislative ~~matter~~ or executive action.

24 (9) ~~An employee who represents the employer's interests in action for no~~
25 ~~more than three hours in a quarter, provided that neither the employee~~
26 ~~nor the employer makes any expenditure as defined in G.S. 120-47.1.~~
27 individual while participating in an advocacy day.

28 (10) A person appearing before an executive branch agency or department
29 on behalf of another person, on an individual application for a license
30 or permit, or a disciplinary action on a license or permit.

31 (11) A person appearing before a public servant on behalf of another person
32 with respect to a proposed sale or lease of real property, goods or
33 services to the State, or construction of property by the State.

34 (12) A person appearing before an executive branch agency or department
35 or a public servant on behalf of another person or entity in connection
36 with an application for a grant, loan, determination or eligibility, or
37 certification.

38 "**§ 120-47.8A. Expenditures made by persons exempted or not covered by this**
39 **Article.**

40 (a) If a covered person ~~or a legislative employee~~ accepts an expenditure made for
41 the purpose of lobbying valued over two hundred dollars (\$200.00) from a person or
42 group of persons acting together, exempted or not otherwise covered by this Article, the
43 person, or group of persons, making the expenditure shall report the date, a description
44 of the expenditure, the name and address of the person, or group of persons, making the

1 expenditure, the name of the covered person ~~or legislative employee~~ accepting the
2 expenditure, and the estimated fair market value of the expenditure.

3 (b) If the person making the expenditure in subsection (a) of this section is
4 outside North Carolina, and the covered person ~~or legislative employee~~ accepting the
5 expenditure is also outside North Carolina at the time the person accepts the
6 expenditure, then the person accepting the expenditure shall be responsible for filing the
7 report using available information.

8 (c) If a covered person ~~or a legislative employee~~ accepts a scholarship valued
9 over two hundred dollars (\$200.00) from a person, or group of persons, acting together,
10 exempted or not covered by this Article, the person, or group of persons, granting the
11 scholarship shall report the date of the scholarship, a description of the event involved,
12 the name and address of the person, or group of persons, granting the scholarship, the
13 name of the covered person ~~or legislative employee~~ accepting the scholarship, and the
14 estimated fair market value.

15 (d) If the person granting the scholarship in subsection (c) of this section is
16 outside North Carolina, the covered person ~~or legislative employee~~ accepting the
17 scholarship shall be responsible for filing the report.

18 (e) This section shall not apply to any of the following:

19 (1) Lawful campaign ~~contributions~~, contributions properly received and
20 reported as required under Article 22A of Chapter 163 of the General
21 Statutes.

22 (2) Any gift from a ~~an~~ extended family member to a covered person,
23 ~~person or legislative employee~~.

24 (3) Gifts associated primarily with the covered ~~person's, legislative~~
25 ~~employee's, person's~~ or that person's immediate family member's
26 ~~nonlegislative~~ employment.

27 (4) Gifts, other than food, beverages, travel, and lodging, which are
28 received from a person who is a citizen of a country other than the
29 United States or a state other than North Carolina and given during a
30 ceremonial presentation or as a custom.

31 (5) A thing of value that is paid for by the State.

32 (f) Reports required by this section shall be filed within 10 business days after
33 the end of the quarter in which the expenditure was made, with the Secretary of State in
34 a manner prescribed by the Secretary of State, which may include electronic reports.

35 **"§ 120-47.8B. Advocacy day.**

36 (a) No lobbyist's principal may conduct more than one advocacy day per
37 calendar year.

38 (b) All advocacy days to lobby the General Assembly must be scheduled through
39 the Legislative Services Office.

40 (c) All advocacy days to lobby public servants must be scheduled through the
41 Governor's Office.

42 (d) All lobbyists' principals conducting an advocacy day shall comply with this
43 Article while conducting the advocacy day.

44 **"§ 120-47.9. Punishment for violation.**

1 (a) Whoever willfully violates any provision of this Article shall be guilty of a
2 Class 1 misdemeanor. In addition, no ~~legislative~~-lobbyist who is convicted of a violation
3 of the provisions of this Article shall in any way act as a ~~legislative or executive~~
4 lobbyist for a period of two years following conviction.

5 (b) In addition to the criminal penalties set forth in this section, the Secretary of
6 State may levy civil fines for willful false or incomplete reporting up to five thousand
7 dollars (\$5,000) per violation.

8 **"§ 120-47.10. Enforcement of Article by Attorney General.**

9 (a) The Secretary of State may investigate complaints of violations of this
10 Article. ~~The Secretary of State and~~ shall report apparent violations of this Article to the
11 Attorney General. The Attorney General shall, upon complaint, make an appropriate
12 investigation thereof, and the Attorney General shall forward a copy of the investigation
13 to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which
14 Wake County is a part, who shall prosecute any person who violates any provisions of
15 this Article.

16 (b) Complaints of violations of this Article involving the Secretary of State or
17 any member of the Department of the Secretary of State shall be referred to the
18 Attorney General for investigation in accordance with G.S. 120-47.7B. Any portion of
19 the complaint not involving alleged violations of this Article by the Secretary of State or
20 any member of the Department of the Secretary of State shall remain with the Secretary
21 of State for investigation. The Attorney General shall, upon receipt of a complaint,
22 make an appropriate investigation thereof, and the Attorney General shall forward a
23 copy of the investigation to the District Attorney of the prosecutorial district as defined
24 in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person who
25 violates any provisions of this Article.

26 (c) Complaints of improper lobbying involving the Attorney General or any
27 member of the Department of Justice shall be investigated by the Secretary of State and
28 any apparent violations reported to the District Attorney of that prosecutorial district as
29 defined in G.S. 7A-60 of which Wake County is a part. The District Attorney of that
30 prosecutorial district shall, upon receipt of the Secretary of State's report, prosecute any
31 person who violates any provisions of this Article.

32 **"§ 120-47.11. Rules and forms.**

33 (a) The Secretary of State shall adopt any rules, orders, forms, and definitions as
34 are necessary to carry out the provisions of this Article. The Secretary of State may
35 appoint a council to advise the Secretary in adopting rules under this section.

36 (b) The Secretary of State shall adopt rules to protect from disclosure all
37 confidential information under Chapter 132 related to economic development initiatives
38 or to industrial or business recruitment activities. The information shall remain
39 confidential until the State, a unit of local government or the business has announced a
40 commitment by the business to expand or locate a specific project in this State or a final
41 decision not to do so and the business has communicated that commitment or decision
42 to the State or local government agency involved with the project.

43 **"§ 120-47.12. Limitations on agency ~~legislative~~-liaison personnel.**

1 (a) No State department may use State funds to contract with persons who are
2 not employed by the State to lobby the General Assembly.

3 (b) No more than two persons in each State department and constituent
4 institution of The University of North Carolina may be registered to lobby the General
5 Assembly or designated as legislative liaison personnel pursuant to this Article.

6 (c) All persons designated as legislative liaison personnel pursuant to this Article
7 and the State department or constituent institution of The University of North Carolina
8 that employs the legislative liaison personnel shall report all expenditures made for
9 lobbying purposes in the same manner as required for legislative lobbyists under
10 G.S. 120-47.6 and lobbyists' principals under G.S. 120-47.7. The registration and
11 authorization fees required under G.S. 120-47.3 and G.S. 120-47.4 shall not apply to
12 legislative liaison personnel or the State department or constituent institution that
13 employs the legislative liaison personnel."

14 **"§ 120-47.13. Advisory opinions.**

15 (a) At the request of any person affected by this Article, the Secretary of State
16 shall render advisory opinions on specific questions involving the meaning and
17 application of this Article and the covered person's compliance therewith. The request
18 shall be in writing and relate prospectively to real or reasonably anticipated fact settings
19 or circumstances. The Secretary of State shall issue advisory opinions having
20 prospective application only. Reliance upon a requested written advisory opinion on a
21 specific matter shall immunize the covered person, on that matter, from both of the
22 following:

23 (1) Investigation by the Secretary of State.

24 (2) Any adverse action by the employing entity.

25 (b) Staff to the Secretary of State may issue advisory opinions under rules
26 adopted by the Secretary of State.

27 (c) The Secretary of State shall interpret the provisions of this Article by rules,
28 and these interpretations shall be binding on all covered persons, lobbyists, and
29 lobbyist's principals upon publication.

30 (d) The Secretary of State shall publish its advisory opinions at least once a year,
31 edited as necessary to protect the identities of the individuals requesting opinions.

32 (e) Except as provided under subsection (d) of this section, requests for advisory
33 opinions and advisory opinions issued pursuant to this section are confidential and not
34 matters of public record.

35 **"§ 120A-47.14. Lobbying education program.**

36 (a) The Secretary of State shall develop and implement a lobbying education and
37 awareness program designed to instill in all covered persons, lobbyists, and lobbyist's
38 principals a keen and continuing awareness of their obligations and a sensitivity to
39 situations that might result in real or potential violation of this Article or other related
40 laws. The Secretary shall make basic lobbying education and awareness presentations to
41 all covered persons upon their election, appointment, or hiring and shall offer periodic
42 refresher presentations as the Secretary deems appropriate. Every covered person shall
43 participate in a lobbying presentation approved by the Secretary within six months of
44 the person's election, appointment, or hiring, and shall attend refresher ethics education

1 presentations at least every two years thereafter in a manner the Secretary deems
2 appropriate. Upon request, the Secretary shall assist each agency in developing in-house
3 education programs and procedures necessary or desirable to meet the agency's
4 particular needs for lobbying education.

5 (b) The Secretary shall publish a newsletter containing summaries of the
6 Secretary's opinions, policies, procedures, and interpretive bulletins as issued from time
7 to time. The newsletter shall be distributed to all covered persons, lobbyists, and
8 lobbyists' principals. Publication under this subsection may be done electronically.

9 (c) The Secretary shall assemble and maintain a collection of relevant State laws,
10 rules, and regulations that set forth lobbying standards applicable to covered persons.
11 The collection of laws, rules, and regulations shall be made available electronically as
12 resource material to covered persons, lobbyists and lobbyists' principals, upon request.

13 **"§ 120-47-15. No gift registry.**

14 (a) The Secretary of State shall establish a "No Gifts" registry for persons subject
15 to this Article. The "No Gifts" registry shall be published and updated with the list of
16 lobbyists and lobbyists' principals required under G.S. 120-47.2.

17 (b) Except as provided in this subsection, lobbyists and lobbyists' principals shall
18 not give unsolicited gifts allowed under G.S. 120-47.5A(a1)(2) to persons placing their
19 names on the registry, without the persons' expressed consent. Gifts of informational
20 directories may be given to persons placing their names on the registry.

21 (c) The Secretary shall have the authority to adopt rules to implement this section
22 in compliance with the following criteria:

23 (1) The registration is valid from the time the person registers until
24 January 1 of the following year, unless the person requests in writing
25 the removal of that person's name.

26 (2) The registration shall be in writing.

27 (d) Violations of this section shall not constitute a crime but shall be subject to
28 civil fines of up to five hundred dollars (\$500.00) as levied by the Secretary of State."

29 **SECTION 9.** Sections 2 and 3 of S.L. 2005-456 are repealed.

30 **SECTION 10.** G.S. 163-278.6 is amended by adding a new subsection to

31 read:

32 **"§ 163-278.6. Definitions.**

33 When used in this Article:

34 ...

35 (5a) The term 'Constitutional officers of the State' means officers whose
36 offices are established in Article III of the Constitution.

37 ..."

38 **SECTION 11.** Article 22A of Chapter 163 of the General Statutes is
39 amended by adding a new section to read:

40 **"§ 163-278.13C. Limitation on contributions by registered lobbyists.**

41 (a) No lobbyist registered under Article 9A of Chapter 120 shall do any of the
42 following:

43 (1) Make or offer to make a contribution to a legislator, executive branch
44 official, or candidate campaign committee.

1 (2) Make a contribution to any candidate, officeholder, or political
2 committee, directing or requesting that the contribution be made in
3 turn to a legislator, executive branch official, or candidate campaign
4 committee.

5 (3) Transfer any amount of money or anything of value to any entity,
6 directing or requesting that the entity use what was transferred to
7 contribute to a legislator, executive branch official, or candidate
8 campaign committee.

9 (4) Solicit a contribution from any individual, political committee, or other
10 entity on behalf of a legislator, executive branch official, or candidate
11 campaign committee. This subdivision does not apply to a registered
12 lobbyist soliciting a contribution on behalf of a political party
13 executive committee if the solicitation is solely for a separate
14 segregated fund kept by the political party limited to use for activities
15 that are not candidate-specific, including generic voter registration and
16 get-out-the-vote efforts, pollings, mailings, and other general activities
17 and advertising that do not refer to a specific individual candidate.

18 (b) No legislator, executive branch official, or candidate campaign committee or
19 the real or purported agent of that legislator, executive branch official, or candidate
20 campaign committee shall do any of the following:

21 (1) Solicit a contribution from a lobbyist registered under Article 9A of
22 Chapter 120 of the General Statutes.

23 (2) Solicit a third party, requesting or directing that the third party directly
24 or indirectly solicit a contribution from a lobbyist registered under
25 Article 9A of Chapter 120 of the General Statutes or relay to the
26 lobbyist registered under Article 9A of Chapter 120 of the General
27 Statutes the legislator's, executive branch official's, or candidate
28 campaign committee's solicitation of a contribution.

29 (3) Accept a contribution from a lobbyist registered under Article 9A of
30 Chapter 120 of the General Statutes.

31 (c) It shall not be deemed a violation of this section for a legislator or executive
32 branch official to serve on a board or committee of an organization that makes a
33 solicitation of a lobbyist registered under Article 9A of Chapter 120 of the General
34 Statutes as long as that legislator or executive branch official does not directly
35 participate in the solicitation and that legislator or executive branch official does not
36 directly benefit from the solicitation.

37 (d) As used in this section, the following terms mean:

38 (1) Candidate campaign committee. – As defined in G.S. 163-278.38Z and
39 that candidate has filed a notice of candidacy for office as a member of
40 the General Assembly or a Constitutional officer of the State.

41 (2) Executive branch official. – As defined in G.S. 120-47.1(8b)(a).

42 (3) Legislator. – As defined in G.S. 120-47.1(4d).

43 (e) A violation of this section is a Class 2 misdemeanor.

44 **SECTION 12.** G.S. 163-278.13B(a)(1) reads as rewritten:

1 "(1) "Limited contributor" means a lobbyist registered pursuant to Article
2 9A of Chapter 120 of the General Statutes, that lobbyist's agent, that
3 lobbyist's principal as defined in G.S. 120-47.1(7), G.S. 120-47 or a
4 political committee that employs or contracts with or whose parent
5 entity employs or contracts with a lobbyist registered pursuant to
6 Article 9A of Chapter 120 of the General Statutes."

7 **SECTION 13.** If any section or provision of this act is declared
8 unconstitutional or invalid by the courts, it does not affect the validity of this act as a
9 whole or any part other than the part so declared to be unconstitutional or invalid.

10 **SECTION 14.** Of Part 2 of this act, Sections 6, 7, 13, and 14 of this act are
11 effective when the act becomes law, and the new G.S. 120-47.7C(d) applies to
12 appointments made on or after that date. The remainder of this Part becomes effective
13 January 1, 2007.

14 **PART 3. REVISE ELECTION LAWS.**

15 **SECTION 15.(a)** Article 22A of Chapter 163 of the General Statutes is
16 amended by adding a new section to read:

17 "§ 163-278.16B. Use of contributed amounts for certain purposes.

18 (a) Permitted Uses. – A contribution accepted by a candidate or candidate's
19 committee may be used only for the following purposes:

- 20 (1) Ordinary expenditures in connection with the campaign for public
21 office of the candidate.
- 22 (2) Ordinary expenses in connection with the duties and activities of the
23 individual as holder of an elective office.
- 24 (3) Donations to an organization described in section 170(c) of the
25 Internal Revenue Code of 1986 (26 U.S.C. § 170(c)).
- 26 (4) Contributions to a national, State, or local committee of a political
27 party.
- 28 (5) Contributions to another candidate for office in North Carolina or to a
29 candidate's committee.
- 30 (6) To return all or a portion of a contribution to the contributor.
- 31 (7) Payment of any penalties against the committee imposed by a board of
32 elections or a court of competent jurisdiction.

33 (b) Prohibited Use. –

- 34 (1) In general. – A contribution described in subsection (a) of this section
35 shall not be converted by any individual to personal use.
- 36 (2) Conversion. – For purposes of subdivision (1) of this subsection, a
37 contribution shall be considered to be converted to personal use if the
38 contribution or amount is used to fulfill any commitment, obligation,
39 or expense of an individual or other entity that would exist irrespective
40 of the candidate's election campaign or duties and activities as
41 officeholder, including the following:
 - 42 a. A home mortgage, rent, or utility payment.
 - 43 b. A clothing purchase.

- 1 c. A noncampaign-related automobile expense.
2 d. A country club membership.
3 e. A vacation or other noncampaign-related trip.
4 f. A household food item.
5 g. A tuition payment.
6 h. Admission to a sporting event, concert, theater, or other form of
7 entertainment not associated with an election campaign.
8 i. Dues, fees, and other payments to a health club or recreational
9 facility.
10 j. A retirement account or other retirement purpose.

11 (c) Rules. – The State Board of Elections shall adopt rules for the
12 implementation of this section."

13 **SECTION 15.(b)** G.S. 163-278.11(a)(2) reads as rewritten:

14 "(2) Expenditures. – A list of all expenditures required under
15 G.S. 163-278.8 made by or on behalf of a candidate, political
16 committee, or referendum committee. The statement shall list the name
17 and complete mailing address of each payee, the amount paid, the
18 purpose, and the date such payment was made. The total sum of all
19 expenditures to date shall be plainly exhibited. Forms for required
20 reports shall be prescribed by the Board. When a payment is made in a
21 lump sum to one payee for several goods or services or both, the
22 statement shall itemize with a reasonable degree of specificity the
23 amount paid for each purpose. In the case of a payment to a credit card
24 company, the statement shall provide a reasonably specific itemization
25 of the bills the credit card was used to pay. In the case of a payment to
26 a provider of services, the statement shall itemize any media
27 advertising purchases made on behalf of the campaign and, with a
28 reasonable degree of specificity, itemize other payments the provider
29 has made on behalf of the campaign. The State Board of Elections
30 shall adopt rules for the implementation of this subdivision."

31 **SECTION 15.(c)** G.S. 163-278.27(a) reads as rewritten:

32 "(a) Any individual, candidate, political committee, referendum committee,
33 treasurer, person or media who intentionally violates the applicable provisions of
34 G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12,
35 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.16B, 163-278.17,
36 163-278.18, 163-278.19, 163-278.20, 163-278.39, 163-278.40A, 163-278.40B,
37 163-278.40C, 163-278.40D or 163-278.40E is guilty of a Class 2 misdemeanor. The
38 statute of limitations shall run from the day the last report is due to be filed with the
39 appropriate board of elections for the election cycle for which the violation occurred."

40 **SECTION 15.(d)** This section becomes effective January 1, 2007, and
41 applies to all candidates, officeholders, and political committees with accounts that are
42 active with the State Board of Elections or a county board of elections on or after that
43 date.

44 **SECTION 16.(a)** G.S. 163-278.14(b) reads as rewritten:

1 "(b) No entity shall give, and no candidate, committee or treasurer shall accept,
2 any monetary contribution in excess of ~~one hundred fifty~~ dollars (~~\$100.00~~) (\$50.00)
3 unless such contribution be in the form of a check, draft, money order, credit card
4 charge, debit, or other noncash method that can be subject to written verification. The
5 State Board of Elections may prescribe guidelines as to the reporting and verification of
6 any method of contribution payment allowed under this Article. For contributions by
7 money order, the State Board shall prescribe methods to ensure an audit trail for every
8 contribution so that the identity of the contributor can be determined. For a contribution
9 made by credit card, the credit card account number of a contributor is not a public
10 record."

11 **SECTION 16.(b)** G.S. 163-278.8(d) is repealed.

12 **SECTION 16.(c)** G.S. 163-278.15 reads as rewritten:

13 "**§ 163-278.15. No acceptance of contributions made by corporations, foreign and**
14 **~~domestic.~~domestic, or other prohibited sources; best efforts.**

15 (a) No Acceptance. – No candidate, political committee, political party, or
16 treasurer shall accept any contribution made by any corporation, foreign or domestic,
17 regardless of whether such corporation does business in the State of North ~~Carolina.~~
18 Carolina, or made by any labor union, professional association, insurance company, or
19 business entity. This section does not apply with regard to entities permitted to make
20 contributions by G.S. 163-278.19(f).

21 (b) Best Efforts. – When a treasurer shows that best efforts have been made to
22 ensure that contributions are from legal contributors and not from a prohibited source,
23 acceptance of the contribution shall not be the basis for imposition of civil penalties,
24 other than forfeiture of the contribution itself, or for criminal prosecution. The State
25 Board of Elections shall adopt rules that specify what are "best efforts" for purposes of
26 this section. Those rules shall recognize that in some instances contribution checks and
27 other instruments clearly disclose to the contributee that the contribution comes from a
28 prohibited source and must not be accepted, but that in other instances a contribution
29 from a prohibited source is not clearly disclosed on the instrument, and the contributee
30 may reasonably believe the contribution is from an individual's personal funds. The
31 State Board shall coordinate the rules with rules required by G.S. 163-278.11(b) for best
32 efforts to obtain, maintain, and submit information on reports required by this Article,
33 so that the contributee can comply with the rules by using one form or a minimal
34 number of forms to try to obtain needed statements from the contributor. If, despite the
35 use of best efforts, the State Board of Elections determines that a contribution was made
36 from the account of a prohibited contributor, the State Board may order that the amount
37 unlawfully received be paid to the State Board by check, and any money so received by
38 the State Board shall be deposited in the Civil Penalty and Forfeiture Fund of North
39 Carolina."

40 **SECTION 16.(d)** This section becomes effective January 1, 2007, and
41 applies to all contributions made and accepted on and after that date.

42 **SECTION 17.(a)** G.S. 163-278.7(f) reads as rewritten:

43 "(f) ~~The State Board of Elections shall provide training for every~~Every treasurer
44 of a political committee, prior to the election in which the political committee is

1 ~~involved, committee shall participate in training as to the duties of the office, office~~
2 ~~within three months of appointment, and at least once every four years thereafter. The~~
3 ~~State Board of Elections shall provide each treasurer with a CD-ROM, DVD, videotape,~~
4 ~~or other electronic document containing the training as to the duties of the office, office~~
5 ~~in person, through and shall conduct regional seminars for in-person training. seminars,~~
6 ~~and through interactive electronic means. The treasurer may choose to participate in~~
7 ~~training prior to each election in which the political committee is involved. All such~~
8 ~~training shall be free of charge to the treasurer."~~

9 **SECTION 17.(b)** This section becomes effective July 1, 2006.

10 **SECTION 18.(a)** Article 22A of Chapter 163 of the General Statutes is
11 amended by adding a new section to read:

12 **"§ 163-278.20A. Making a contribution through an intermediary.**

13 (a) Lawful Contributions Through Intermediaries. – It is lawful for any entity
14 that is not otherwise prohibited from making the contribution to make one through an
15 intermediary as long as all the following conditions are satisfied:

- 16 (1) The original contributor, on the instrument with which the contribution
17 is made, makes a complete designation of the amount of the
18 contribution, the date the contribution is made, and the political
19 committee, candidate, or other lawful entity that the contributor
20 intends to be the recipient of the contribution. If the contribution is by
21 check, the contributor must sign and date the check and must complete
22 the amount and payee spaces on the check. If an individual contributor,
23 because of disability, lack of knowledge of the precise name of the
24 contributor, or another justifiable reason, is unable to complete the
25 check or other instrument, that contributor may receive assistance in
26 completing it, but the substance of the completion shall be entirely at
27 the direction of the contributor.
- 28 (2) The contribution is within the limits provided in G.S. 163-278.13.
- 29 (3) The transaction is reported by the contributor and the contributor if
30 reporting is required by this Article.
- 31 (4) The intermediary is not prohibited from soliciting contributions by
32 G.S. 163-278.13B.
- 33 (5) The contribution is delivered to the contributor within 20 days after the
34 intermediary takes possession of the instrument by which the
35 contribution is made.

36 (b) Unlawful Contributions Through Intermediaries. – It is unlawful for any
37 entity to make a contribution through an intermediary if the conditions of subsection (a)
38 of this section are not satisfied. No one but the contributor shall complete any portion of
39 a contribution check or other contribution instrument. If an individual contributor,
40 because of disability, lack of knowledge of the precise name of the contributor, or
41 another justifiable reason, is unable to complete the check or other instrument, that
42 contributor may receive assistance in completing it, but the substance of the completion
43 shall be entirely at the direction of the contributor.

1 (c) No Reporting Required of Intermediary. – If a contribution involving an
2 intermediary satisfies the conditions of subsection (a) of this section, the participation of
3 an intermediary of a contribution is not required to be reported.

4 (d) Duty of Intermediary to Deliver or Return Contribution. – If an intermediary
5 takes possession of a contribution and agrees to forward that contribution to another
6 entity, that intermediary shall forward the contribution to the donee entity or return the
7 contribution to the donor within 20 days of taking possession.

8 (e) Definition of "Intermediary". – As used in this Article, the term
9 "intermediary" means an entity that receives money or anything of value from an entity
10 with the understanding that it will be forwarded as a contribution by the donor entity to
11 a candidate, political committee, or other entity intended to accept a contribution.

12 (f) Penalties. – A violation of this section is a Class 2 misdemeanor. A violation
13 of this section constitutes "mak[ing] or accept[ing] a contribution in violation of this
14 Article" for purposes of the imposition of civil penalties under G.S. 163-278.34.

15 (g) Rules. – The State Board of Elections shall adopt rules for the
16 implementation of this section."

17 **SECTION 18.(b)** G.S. 163-278.27(a) reads as rewritten:

18 "(a) Any individual, candidate, political committee, referendum committee,
19 treasurer, person or media who intentionally violates the applicable provisions of
20 G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12,
21 163-278.13, 163-278.13B, 163-278.14, 163-278.16, 163-278.17, 163-278.18,
22 163-278.19, 163-278.20, 163-278.20A, 163-278.39, 163-278.40A, 163-278.40B,
23 163-278.40C, 163-278.40D or 163-278.40E is guilty of a Class 2 misdemeanor. The
24 statute of limitations shall run from the day the last report is due to be filed with the
25 appropriate board of elections for the election cycle for which the violation occurred."

26 **SECTION 18.(c)** G.S. 163-278.20 reads as rewritten:

27 "**§ 163-278.20. Disclosure before soliciting contributions.**

28 (a) It shall be unlawful for one or more individuals acting in concert, or for any
29 group, committee, club or organization, of any type or nature, of two or more
30 individuals, to solicit, attempt to solicit, or receive contributions for the purpose of
31 supporting a candidate, political committee, referendum committee, or political party
32 without first clearly advising those solicited as follows:

33 (1) The name of the candidate(s) for whom the contribution will be used;
34 or

35 (2) The name of the political committee or party for which the funds will
36 be used; or

37 ~~(3) That a decision will be reached later as to the candidate(s), political~~
38 ~~committee(s), or political party(ies) to be supported and that the~~
39 ~~contributions solicited will be expended in a manner and for a purpose~~
40 ~~to be determined at a future date but no later than 20 days prior to the~~
41 ~~pending primary or general election; or~~

42 (4) The name of the referendum committee for which the funds will be
43 used.

44 (b) A violation of this section is a Class 2 misdemeanor."

1 **SECTION 18.(d)** This section becomes effective January 1, 2007, and
2 applies to any contribution made or accepted on or after that date and to any
3 contribution received or forwarded on or after that date.

4 **SECTION 19.** G.S. 163-278.13(e) reads as rewritten:

5 "(e) This section shall not apply to any national, State, district or county executive
6 committee of any political ~~party.~~ party, except that no political committee shall
7 contribute more than ten thousand dollars (\$10,000) to a State executive committee of a
8 political party during the same election cycle. For the purposes of this section only, the
9 term "political party" means only those political parties officially recognized under
10 G.S. 163-96."

11 **SECTION 20.(a)** G.S. 163-278.9(j) reads as rewritten:

12 "(j) ~~Treasurers for the following entities shall electronically file each report~~
13 ~~required by this section that shows a cumulative total for the election cycle in excess of~~
14 ~~five thousand dollars (\$5,000) in contributions, in expenditures, or in loans, according to~~
15 ~~rules adopted by the State Board of Elections:~~

16 (1) ~~A candidate for statewide office;~~

17 (2) ~~A State, district, county, or precinct executive committee of a political~~
18 ~~party, if the committee makes contributions or independent~~
19 ~~expenditures in excess of five thousand dollars (\$5,000) that affect~~
20 ~~contests for statewide office;~~

21 (3) ~~A political committee that makes contributions in excess of five~~
22 ~~thousand dollars (\$5,000) to candidates for statewide office or makes~~
23 ~~independent expenditures in excess of five thousand dollars (\$5,000)~~
24 ~~that affect contests for statewide office.~~

25 section in a manner prescribed by the State Board of Elections. The State Board shall
26 implement an electronic campaign report filing system so that all reports may be viewed
27 publicly on the Internet within 48 hours being filed. The State Board of Elections shall
28 provide the software necessary to file an electronic report in compliance with this
29 section to a any treasurer required to file an the electronic report at no cost to the
30 treasurer."

31 **SECTION 20.(b)** There is appropriated from the General Fund to the State
32 Board of Elections the sum of one million dollars (\$1,000,000) for the 2006-2007 fiscal
33 year to implement this section.

34 **SECTION 20.(c)** Subsection (a) of this section becomes effective February
35 1, 2007, and applies to all reports required to be filed on or after that date. Subsections
36 (b) and (c) of this section become effective July 1, 2006.

37 **SECTION 21.** There is appropriated from the General Fund to the State
38 Ethics Commission the sum of one million dollars (\$1,000,000) for the 2006-2007 fiscal
39 year to implement this act.

40 **SECTION 22.** Section 20 of this act is effective July 1, 2006. Section 22 of
41 this act is effective when it becomes law. Section 4 of this act becomes effective
42 January 1, 2007. Except as otherwise provided in this act, the remainder of this act
43 becomes effective October 1, 2006, applies to covered persons on or after January 1,
44 2007, to acts and conflicts of interest that arise on or after January 1, 2007, and to

1 offenses committed on or after January 1, 2007. Prosecutions for offenses or ethics
2 violations committed before January 1, 2007, are not abated or affected by this act, and
3 the statutes that would be applicable but for this act remain applicable to those
4 prosecutions.