

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**SENATE BILL 1976**

Short Title: Reform Governmental Ethics. (Public)

Sponsors: Senators Presnell, Berger of Rockingham; Allran, Apodaca, Blake, Brock, Brown, East, Forrester, Goodall, Hartsell, Hunt, Jacumin, Miller, Smith, Stevens, Tillman, and Webster.

Referred to: Judiciary I.

May 26, 2006

A BILL TO BE ENTITLED

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

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  
18  
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 15<sup>th</sup> 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           (5) The State Board of Elections for those covered persons who are  
2           elected.

3 **"§ 138A-39. Failure to file.**

4           (a) Within 30 days after the date due in accordance with G.S. 138A-36, for every  
5 covered person from whom a statement of economic interest has not been received by  
6 the Commission, or whose statement of economic interest has been received by the  
7 Commission but deemed by the Commission to be incomplete, the Commission shall  
8 notify the covered person of the failure to file or complete and shall notify the covered  
9 person that if the statement of economic interest is not filed or completed within 30 days  
10 of receipt of the notice of failure to file or complete, the covered person shall be subject  
11 to a fine as provided for in this section.

12           (b) Any covered person who fails to file or complete a statement of economic  
13 interest within 30 days of the receipt of the notice, required under subsection (a) of this  
14 section, shall be subject to a fine of two hundred fifty dollars (\$250.00), to be imposed  
15 by the Commission.

16           (c) Failure by any covered person to file or complete a statement of economic  
17 interest within 60 days of the receipt of the notice, required under subsection (a) of this  
18 section, shall be deemed to be a violation of this Chapter and shall be grounds for  
19 disciplinary action under G.S. 138A-45.

20 **"§ 138A-40. Concealing or failing to disclose material information.**

21           A covered person who knowingly conceals or fails to disclose information that is  
22 required to be disclosed on a statement of economic interest under this Article shall be  
23 punished as a Class 1 misdemeanor and shall be subject to disciplinary action under  
24 G.S. 138A-45.

25 **"§ 138A-41. Penalty for false or misleading information.**

26           A covered person who provides false or misleading information on a statement of  
27 economic interest as required under this Article knowing that the information is false or  
28 misleading shall be punished as a Class H felon and shall be subject to disciplinary  
29 action under G.S. 138A-45.

30 **"§ 138A-42 through 44. [Reserved]**

31   "Article 5.

32   "Violation Consequences.

33 **"§ 138A-45. Violation consequences.**

34           (a) Violation of this Chapter by any public servant, legislator or legislative  
35 employee is grounds for disciplinary action. Except as provided in Article 4 of this  
36 Chapter and for perjury under G.S. 138A-25 and G.S. 138A-38, no criminal penalty  
37 shall attach for any violation of this Chapter.

38           (b) The willful failure of any public servant serving on a board to comply with  
39 this Chapter is misfeasance, malfeasance, or nonfeasance. In the event of misfeasance,  
40 malfeasance, or nonfeasance, the offending public servant serving on a board is subject  
41 to removal from the board of which the public servant is a member. For appointees of  
42 the Governor and members of the Council of State, the appointing authority may  
43 remove the offending public servant. For appointees of the General Assembly, the

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 (a) No member or former member of the General Assembly may be employed as  
2 a legislative lobbyist by a lobbyist's principal to lobby as defined in this Article within  
3 one year after the end of that member's service in the General Assembly.

4 (b) No person serving, or formerly having served, as Governor, a member of the  
5 Council of State, or a head of a principal State department listed in G.S. 143B-6 may be  
6 employed as a legislative lobbyist by a lobbyist's principal to lobby as defined in this  
7 Article within one year after separation from employment or leaving office.

8 (c) No individual registered as a legislative lobbyist shall serve as a campaign  
9 treasurer under Chapter 163 of the General Statutes as defined in G.S. 163-278.6(19) for  
10 a campaign for election as a member of the General Assembly, Governor, or Council of  
11 State.

12 (d) A legislative lobbyist shall not be eligible for appointment by a State official  
13 to any body created under the laws of this State that has regulatory authority over the  
14 activities of a person that the legislative lobbyist currently represents or has represented  
15 within 60 days after the expiration of the legislative lobbyist's registration representing  
16 that person. Nothing herein shall be construed to prohibit appointment by any unit of  
17 local government.

18 (e) No legislative lobbyist or another acting on the legislative lobbyist's behalf  
19 shall permit a covered person, legislative employee, or that person's immediate family  
20 member to use the cash or credit of the lobbyist for the purpose of lobbying unless the  
21 lobbyist is in attendance at the time of the expenditure."

22 **SECTION 7.** Article 9A of Chapter 120 of the General Statutes is amended  
23 to add a new section to read:

24 **"§ 120-47.7B. Powers and duties of the Secretary of State.**

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

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

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

39 **SECTION 8.** Article 9A of Chapter 120 of the General Statutes reads as  
40 rewritten:

41 "Article 9A.

42 "~~Legislative Branch~~Lobbying.

43 **"§ 120-47.1. Definitions.**

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.