

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2542
Committee Substitute Favorable 7/8/08

Short Title: Clarify Ethics and Lobbying Laws.

(Public)

Sponsors:

Referred to:

May 26, 2008

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING CHANGES TO THE STATE GOVERNMENT
ETHICS ACT AND THE LOBBYING LAWS AND TO MAKE OTHER
CONFORMING CHANGES, AS RECOMMENDED BY THE HOUSE ETHICS
COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 120-103.1 is amended by adding a new subsection to
read:

"(a1) Complaints on Its Own Motion. – An investigation initiated by the
Committee on its own motion instituted under subsection (a) of this section shall be
treated as a complaint for purposes of this section and need not be sworn nor verified."

SECTION 1.(b) G.S. 138A-12 is amended by adding a new subsection to
read:

"(b1) Complaints on Its Own Motion. – An investigation initiated by the
Commission on its own motion or upon written request of any public servant or those
responsible for the hiring, appointing, or supervising of a public servant instituted under
subsection (b) of this section shall be treated as a complaint for purposes of this section
and need not be sworn nor verified."

SECTION 2.(a) G.S. 120-104(g) reads as rewritten:

"(g) Except as provided under subsection (f) of this section, requests for advisory
opinions, any supporting documents submitted in connection with a request for an
advisory opinion, advisory opinions issued under this section, and advisory opinions
received from the State Ethics Commission are confidential and not matters of public
record. A member of the General Assembly requesting and receiving an advisory
opinion may authorize release of the advisory opinion to any other person or
governmental unit."

SECTION 2.(b) G.S. 120C-102(d) reads as rewritten:

"(d) Except as provided under subsection (c) of this section, requests for advisory
opinions, any supporting documents submitted in connection with a request for

1 an advisory opinion, and advisory opinions issued pursuant to this section are
2 confidential and not matters of public record. Staff to the Commission may share all
3 information related to requests made under subsection (a) of this section with staff of
4 the Office of the Secretary of State, and staff of the Office of the Secretary of State shall
5 treat that information as confidential and not a public record. The Commission shall
6 forward an unedited copy of each advisory opinion under this section to the Secretary of
7 State at the time the advisory opinion is issued to the requestor, and the Secretary of
8 State shall treat that unedited advisory opinion as confidential and not a public record.
9 The person or governmental unit requesting and receiving a formal advisory opinion
10 may authorize release of the advisory opinion to any other person or governmental
11 unit."

12 **SECTION 2.(c)** G.S. 138A-13(e) reads as rewritten:

13 "(e) Except as provided under subsection (d) of this section, requests for advisory
14 opinions, any supporting documents submitted in connection with a request for an
15 advisory opinion, and advisory opinions issued under this section, are confidential and
16 not public records. Staff to the Commission may share all information related to
17 requests made under subsection (b) of this section with staff to the Committee, and staff
18 to the Committee shall treat that information as confidential and not a public record.
19 The individual requesting and receiving a formal advisory opinion under subsections (a)
20 and (b) of this section may authorize release of the advisory opinion to any other person
21 or governmental unit."

22 **SECTION 2.(d)** This section becomes effective January 1, 2007.

23 **SECTION 3.** G.S. 120-103.1(i)(3)b. reads as rewritten:

24 "b. The hearing shall be ~~legislator~~ open to the public, except for
25 matters that could otherwise be considered in closed session
26 under G.S. 143-318.11, matters involving minors, or matters
27 involving a personnel record. In any event, the deliberations by
28 the Commission on a complaint may be held in closed session."

29 **SECTION 4.** G.S. 120C-100(a)(8) reads as rewritten:

30 "(8) Liaison personnel. – Any State employee, counsel employed under
31 G.S. 147-17, or officer whose principal duties, in practice or as set
32 forth in that ~~person's~~individual's job description, include lobbying
33 ~~designated individuals~~legislators or legislative employees."

34 **SECTION 5.** G.S. 120C-100(a)(9) reads as rewritten:

35 "(9) Lobbying. – Any of the following:

- 36 a. Influencing or attempting to influence legislative or executive
37 action, or both, through direct communication or activities with
38 a designated individual or that ~~person's~~designated individual's
39 immediate family.
40 b. Developing goodwill through communications or activities,
41 including the building of relationships, with a designated
42 individual or that ~~person's~~designated individual's immediate
43 family with the intention of influencing current or future
44 legislative or executive action, or both.

1 The term "lobbying" does not include communications or activities as
2 part of a business, civic, religious, fraternal, personal, or commercial
3 relationship which is not connected to legislative or executive action,
4 or both."

5 **SECTION 6.** G.S. 120C-100(a)(10)b. reads as rewritten:

6 "b. Represents another ~~person,~~ person or governmental unit, but is
7 not directly employed by that ~~person,~~ person or governmental
8 unit, and receives ~~compensation-~~ payment for services for the
9 purpose of lobbying. For the purposes of this sub-subdivision,
10 the term ~~compensation-~~ 'payment for services' shall not include
11 reimbursement of actual travel and subsistence."

12 **SECTION 7.** G.S. 120C-100(a)(11) reads as rewritten:

13 "(11) Lobbyist principal and principal. – The person or governmental unit on
14 whose behalf the lobbyist lobbies. In the case where a lobbyist is
15 compensated by a law firm, consulting firm, or other entity retained by
16 a person or governmental unit for lobbying, the principal is the person
17 or governmental unit whose interests the lobbyist represents in
18 lobbying. In the case of a lobbyist employed or retained by an
19 association or other organization, the lobbyist's principal is the
20 association or other organization, not the individual members of the
21 association or other organization.

22 The term "lobbyist's principal" shall not include those designating
23 registered liaison personnel under Article 5 of this Chapter."

24 **SECTION 8.** G.S. 120C-100(a) is amended by adding a new subdivision to

25 read:

26 "(11k) Payment for services. – Any money, thing of value, or economic
27 benefit paid to a lobbyist in return for lobbying."

28 **SECTION 9.** G.S. 120C-101(c) reads as rewritten:

29 "(c) In adopting rules under this Chapter, the Commission is exempt from the
30 requirements of Article 2A of Chapter 150B of the General Statutes, except that the
31 Commission shall ~~maintain a mailing list of interested persons as provided in comply~~
32 with G.S. 150B-21.2(d). At least 30 business days prior to adopting a rule, the
33 Commission shall:

- 34 (1) Publish the proposed rules in the North Carolina Register.
- 35 (2) Submit the rule and a notice of public hearing to the Codifier of Rules,
36 and the Codifier of Rules shall publish the proposed rule and the notice
37 of public hearing on the Internet to be posted within five business
38 days.
- 39 (3) Notify ~~persons~~ those on the mailing list maintained in accordance with
40 G.S. 150B-21.2(d) and any other interested parties of its intent to adopt
41 a rule and of the public hearing.
- 42 (4) Accept written comments on the proposed rule for at least 15 business
43 days prior to adoption of the rule.

1 (5) Hold at least one public hearing on the proposed rule no less than five
2 days after the rule and notice have been published.

3 A rule adopted under this subsection becomes effective the first day of the month
4 following the month the final rule is submitted to the Codifier of Rules for entry into the
5 North Carolina Administrative Code.

6 (d) For purposes of G.S. 150B-21.3(b2), a written objection filed by the
7 Commission to a rule adopted by the Secretary of State pursuant to this Chapter shall be
8 deemed written objections from 10 or more ~~persons~~persons under that statute.
9 Notwithstanding G.S. 150B-21.3(b2), a rule adopted by the Secretary of State pursuant
10 to this Chapter objected to by the Commission under this subsection shall not become
11 effective until an act of the General Assembly approving the rule has become law. If the
12 General Assembly does not approve a rule under this subsection by the day of
13 adjournment of the next regular session of the General Assembly that begins at least 25
14 days after the date the Rules Review Commission approves the rule, the permanent rule
15 shall not become effective and any temporary rule associated with the permanent rule
16 expires. If the General Assembly fails to approve a rule by the day of adjournment, the
17 Secretary of State may initiate rulemaking for a new permanent rule, including by the
18 adoption of a temporary rule."

19 **SECTION 10.** G.S. 120C-102(a) reads as rewritten:

20 "(a) At the request of any ~~person~~person or governmental unit affected by this
21 Chapter, the Commission shall render advisory opinions on specific questions involving
22 the meaning and application of this Chapter and that ~~person's~~person's or governmental
23 unit's compliance therewith. The request shall be in writing and relate to real or
24 reasonably anticipated fact settings or circumstances. The Commission shall issue
25 advisory opinions having prospective application only. Good faith reliance upon a
26 requested written advisory opinion on a specific matter shall immunize the designated
27 individual, lobbyist, lobbyist's principal, or other ~~person~~person or governmental unit
28 requesting that written advisory opinion from all of the following:

- 29 (1) Investigation by the Commission.
30 (2) Any adverse action by the employing entity.
31 (3) Investigation by the Secretary of State."

32 **SECTION 11.** G.S. 120C-103(a) reads as rewritten:

33 "(a) The Commission shall develop and implement a lobbying education and
34 awareness program designed to instill in all designated individuals, lobbyists, and
35 lobbyists' principals a keen and continuing awareness of their obligations and sensitivity
36 to situations that might result in real or potential violation of this Chapter or other
37 related laws. The Commission shall make basic lobbying education and awareness
38 presentations to all designated individuals upon their election, appointment, or hiring
39 and shall offer periodic refresher presentations as the Commission deems appropriate.
40 Every designated individual shall participate in a lobbying presentation approved by the
41 Commission within six months of the ~~person's~~designated individual's election,
42 appointment, or hiring and shall attend refresher lobbying education presentations at
43 least every two years thereafter in a manner the Commission deems appropriate. The
44 Commission shall also make lobbying education and awareness programs available to

1 lobbyists and lobbyists' principals. Upon request, the Commission shall assist each
2 agency in developing in-house education programs and procedures necessary or
3 desirable to meet the agency's particular needs for lobbying education."

4 **SECTION 12.** G.S. 120C-104 reads as rewritten:

5 **"§ 120C-104. Chapter applies to candidates for certain offices.**

6 For purposes of this Chapter, the term "legislator" as defined in G.S. 120C-100(7)
7 and the term "public servant" as defined in G.S. 138A-3(30)a. shall include ~~a person an~~
8 individual having filed a notice of candidacy for such office under G.S. 163-106 or
9 Article 11 of Chapter 163 of the General Statutes or nominated under G.S. 163-114 or
10 G.S. 163-98."

11 **SECTION 13.** G.S. 120C-200(a) reads as rewritten:

12 "(a) A lobbyist shall file a separate registration statement for each principal the
13 lobbyist represents with the Secretary of State before engaging in any lobbying. It shall
14 be unlawful for ~~a person an individual~~ to lobby without registering within one business
15 day of engaging in any lobbying as defined in G.S. 120C-100(9) unless exempted by
16 this Chapter."

17 **SECTION 14.** G.S. 120C-206(a) reads as rewritten:

18 "(a) A written authorization signed by the lobbyist's principal authorizing the
19 lobbyist to represent the principal shall be filed with the Secretary of State within 10
20 business days after the lobbyist's registration. A person or governmental unit retaining a
21 lobbyist shall register within one business day of retaining that lobbyist, unless
22 exempted by this Chapter."

23 **SECTION 15.** G.S. 120C-220(a) reads as rewritten:

24 "(a) The Secretary of State shall make available as soon as practicable the
25 registrations of the lobbyists and liaison personnel in an electronic, searchable format."

26 **SECTION 16.** G.S. 120C-300 reads as rewritten:

27 **"§ 120C-300. Contingency fees prohibited.**

28 (a) No ~~person individual~~ shall act as a lobbyist for ~~compensation payment for~~
29 services that is dependent upon the result or outcome of any legislative or executive
30 action.

31 (b) This section shall not apply to ~~a person an individual~~ doing business with the
32 State who is engaged in sales with respect to that business with the State whose regular
33 ~~compensation remuneration~~ agreement includes commissions based on those sales. For
34 purposes of this subsection, the term 'regular remuneration' means any money, thing of
35 value, or economic benefit conferred on or received by the individual in return for
36 services rendered or to be rendered by that individual or another.

37 (c) Any ~~compensation paid~~ payment for services to a lobbyist in violation of this
38 section is subject to forfeiture and shall be paid into the Civil Penalty and Forfeiture
39 Fund."

40 **SECTION 17.** G.S. 120C-303(a)(2) reads as rewritten:

41 "(2) Knowingly give a gift to a third party with the intent that a designated
42 individual be the ultimate recipient. A third party includes a person,
43 the State, and a governmental unit."

44 **SECTION 18.** G.S. 120C-303(d) reads as rewritten:

1 "(d) Gifts made to a nonpartisan state, regional, national, or international
2 legislative organization of which the General Assembly is a member or a legislator or
3 legislative employee is a member or participant of by virtue of that ~~person's~~legislator's
4 or legislative employee's public position, or to an affiliated organization of that
5 nonpartisan state, regional, national, or international organization, shall not constitute a
6 violation of subdivision (a)(2) of this section or of G.S. 138A-32(c)."

7 **SECTION 19.** G.S. 120C-303(e) reads as rewritten:

8 "(e) Gifts made to a nonpartisan state, regional, national, or international
9 organization of which a public servant's agency is a member or a public servant is a
10 member or participant of by virtue of that ~~person's~~public servant's public position, or to
11 an affiliated organization of that nonpartisan state, regional, national, or international
12 organization, shall not constitute a violation of subdivision (a)(2) of this section or of
13 G.S. 138A-32(c)."

14 **SECTION 20.** G.S. 120C-304(c) reads as rewritten:

15 "(c) No ~~person serving as a~~ public servant or former public servant as defined in
16 G.S. 138A-3(30)c. may register as a lobbyist under this Chapter within six months after
17 separation from ~~employment.~~employment as a public servant."

18 **SECTION 21.** G.S. 120C-304(e) reads as rewritten:

19 "(e) A lobbyist shall not be eligible for appointment by a State official to, or
20 service on, any body created under the laws of this State that has regulatory authority
21 over the activities of a person or governmental unit that the lobbyist currently represents
22 or has represented within 120 days after the expiration of the lobbyist's registration
23 representing that ~~person.~~person or governmental unit. Nothing herein shall be construed
24 to prohibit appointment by any unit of local government."

25 **SECTION 22.** G.S. 120C-305 reads as rewritten:

26 "**§ 120C-305. Prohibition on the use of cash or credit of the lobbyist.**

27 No lobbyist or another acting on the lobbyist's behalf shall permit a designated
28 individual, or that ~~person's~~designated individual's immediate family member, to use the
29 cash or credit of the lobbyist for the purpose of lobbying unless the lobbyist is in
30 attendance at the time of the reportable expenditure."

31 **SECTION 23.** G.S. 120C-400 reads as rewritten:

32 "**§ 120C-400. Reporting of reportable expenditures.**

33 (a) For purposes of this Chapter, all reportable expenditures made for the purpose
34 of lobbying shall be reported, including the following:

35 (1) Reportable expenditures benefiting or made on behalf of a designated
36 ~~individual, or those persons' immediate family members,~~individual in
37 the regular course of that designated individual's employment.

38 (1a) Reportable expenditures benefiting or made on behalf of a designated
39 individual's immediate family member in the regular course of that
40 immediate family member's employment.

41 (2) Contractual arrangements or direct business relationships between a
42 lobbyist or lobbyist's principal and a designated individual, or that
43 ~~person's~~designated individual's immediate family member, in effect
44 during the reporting period or the previous 12 months.

1 (3) Reportable expenditures reimbursed to a lobbyist in the ordinary
2 course of business by the lobbyist's principal or other employer.

3 (b) This section shall not apply to any reportable expenditure of cash, a cash
4 equivalent, or a fixed asset made directly to a State agency ~~and that agency~~ maintains an
5 accounting of the reportable expenditure that is a public record."

6 **SECTION 24.** G.S. 120C-401(b) reads as rewritten:

7 "(b) ~~Each~~ For reportable expenditures, each report shall set forth all of the
8 following:

9 (1) ~~the~~ The fair market value ~~value~~, or face value if ~~shown~~ shown.

10 (2) ~~date~~, The date of the reportable expenditure.

11 (3) ~~a~~ A description of the reportable expenditure, ~~expenditure~~.

12 (4) ~~name~~ The name and address of the payee, or ~~beneficiary,~~
13 ~~and beneficiary~~.

14 (5) ~~name~~ The name of any designated individual, or that ~~person's~~
15 designated individual's immediate family ~~member~~ member connected
16 with the reportable expenditure.

17 (b1) For purposes of subdivision (b)(5) of this section, ~~When~~ when more than 15
18 designated individuals benefit from or request a reportable expenditure, no names of
19 individuals need be reported provided that the report identifies the approximate number
20 of designated individuals benefiting or requesting and the basis for their selection,
21 including the name of the legislative body, committee, caucus, or other group whose
22 membership list is a matter of public record in accordance with G.S. 132-1 or including
23 a description of the group that clearly distinguishes its purpose or composition from the
24 general membership of the General Assembly. The approximate number of immediate
25 family members of designated individuals who benefited from the reportable
26 expenditure shall be listed separately."

27 **SECTION 25.** G.S. 120C-401 is amended by adding a new subsection to
28 read:

29 "(b2) For purposes of subdivision (b)(5) of this section, when the reportable
30 expenditure is a gift to a third party with the intent that a designated individual be the
31 ultimate recipient and the lobbyist or lobbyist principal does not know the name or
32 names of the designated individual, the lobbyist or lobbyist principal shall report a
33 description of designated individuals and those designated individuals' immediate
34 family members connected with the reportable expenditure that clearly distinguished its
35 purpose or composition, and an approximate number, if known."

36 **SECTION 26.** G.S. 120C-401(c) reads as rewritten:

37 "(c) Reportable expenditures shall be reported using the following categories:

38 (1) Transportation and lodging.

39 (2) Entertainment.

40 (3) Food and beverages.

41 (4) Meetings and events.

42 (5) Gifts.

43 (6) Other reportable expenditures.

44 (7) Other disclosures required by this Article."

1 **SECTION 27.** G.S. 120C-402(b)(3) reads as rewritten:

2 "(3) Reportable expenditures reimbursed by the lobbyist's principal, or
3 another person or governmental unit on the lobbyist's principal's
4 behalf."

5 **SECTION 28.** G.S. 120C-402(b) is amended by adding a new subdivision to
6 read:

7 "(5) All items reimbursed or paid to the lobbyist for lobbying not included
8 in payment for services, with an itemized description of those items
9 reimbursed or paid."

10 **SECTION 29.** G.S. 120C-403(b) reads as rewritten:

11 "(b) The report shall be filed whether or not reportable expenditures are made,
12 shall be due 10 business days after the end of the reporting period, and shall include all
13 of the following for the reporting period:

- 14 (1) All reportable expenditures made for the purpose of lobbying.
15 (2) Solicitation of others when such solicitation involves an aggregate cost
16 of more than three thousand dollars (\$3,000).
17 (3) ~~Compensation~~—With respect to each lobbyist registered under
18 G.S. 120C-206, payment for services paid to all lobbyists during the
19 quarter. If a lobbyist is a full-time employee of the principal, or is
20 compensated-paid by means of an annual fee or retainer, the principal
21 shall estimate and report the portion of the salary, fee, or retainer that
22 compensates—is reasonably allocated for the purpose of lobbying. A
23 lobbyist principal may rely upon a statement by the lobbyist estimating
24 the portion of the salary, fee, or retainer that is reasonably allocated for
25 the purpose of lobbying.
26 (4) With respect to each lobbyist registered under G.S. 120C-206,
27 Reportable reportable expenditures reimbursed or paid to lobbyists for
28 lobbying that are not reported on the lobbyist's report, with an itemized
29 description of those reportable expenditures.
30 (5) All reportable expenditures for gifts given under
31 G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts
32 given under G.S. 138A-32(e)(10) with a value of more than two
33 hundred dollars (\$200.00).
34 (6) With respect to each lobbyist registered under G.S. 120C-206, all
35 items reimbursed or paid to the lobbyist for lobbying not included in
36 payment for services and not reported on the lobbyist's report, with an
37 itemized description of those items reimbursed or paid."

38 **SECTION 30.** G.S. 120C-500(b) reads as rewritten:

39 "(b) No State ~~funds~~ agency or constitutional officer of the State may ~~be used to~~
40 contract with ~~persons~~ individuals who are not employed by the State to lobby legislators
41 and legislative employees. This subsection shall not apply to counsel employed by any
42 agency, board, department, or division authorized to employ counsel under
43 G.S. 147-17."

1 **SECTION 31.** G.S. 120C-500 is amended by adding a new subsection to
2 read:

3 "(d) The Chief Justice of the Supreme Court shall designate at least one, but no
4 more than four, liaison personnel to lobby for legislative action for all offices,
5 conferences, commissions, and other agencies established under Chapter 7A of the
6 General Statutes. This subsection shall not apply to any office created under Article 60
7 of Chapter 7A of the General Statutes, so long as that office complies with subsection
8 (a) of this section."

9 **SECTION 32.** G.S. 120C-500(c) reads as rewritten:

10 "(c) No more than two ~~persons~~individuals may be designated as liaison personnel
11 for each agency and constitutional officers of the State, including all boards,
12 departments, divisions, constituent institutions of The University of North Carolina,
13 community colleges, and other units of government in the executive branch."

14 **SECTION 33.** G.S. 120C-501(e) reads as rewritten:

15 "(e) The University of North Carolina or any of its constituent institutions, or
16 designated~~the liaison personnel designated by that board and the constituent~~
17 institutions, of those persons, shall not give, for the purpose of lobbying, athletic tickets
18 to any designated individual, except for those who are described in G.S. 138A-3(30)j. or
19 those who are students and receive tickets on the same basis as other students."

20 **SECTION 34.** G.S. 120C-600(c) reads as rewritten:

21 "(c) Complaints of violations of Articles 2, 4, and 8 of this Chapter and Chapter,
22 all other records accumulated in conjunction with the investigation of these complaints
23 complaints, and any records accumulated in the performance of a systematic review
24 shall be considered confidential records and may be released only by order of a court of
25 competent jurisdiction. records of criminal investigations under G.S. 132-1.4. Any
26 information obtained by the Secretary of State from any law enforcement agency,
27 administrative agency, or regulatory organization on a confidential or otherwise
28 restricted basis in the course of an investigation or systematic review shall be
29 confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the
30 possession of the providing agency or organization."

31 **SECTION 35.** G.S. 120C-601(c) reads as rewritten:

32 "(c) Complaints of violations of this Chapter and all other records accumulated in
33 conjunction with the investigation of these complaints shall be considered~~records of~~
34 criminal investigations under G.S. 132-1.confidential records and may be released only
35 by order of a court of competent jurisdiction. Any information obtained by the
36 Commission from any law enforcement agency, administrative agency, or regulatory
37 organization on a confidential or otherwise restricted basis in the course of an
38 investigation shall be confidential and exempt from G.S. 132-6 to the same extent that it
39 is confidential in the possession of the providing agency or organization."

40 **SECTION 36.** G.S. 120C-603 reads as rewritten:

41 "**§ 120C-603. Enforcement by district attorney and Attorney General.**

42 (a) The Commission or the Secretary of State, as appropriate, may investigate
43 complaints of violations of this Chapter and shall report apparent violations of this
44 Chapter to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of

1 which Wake County is a part, who shall prosecute any person or governmental unit who
2 violates any provisions of this Chapter.

3 (b) Complaints of violations of this Chapter involving the Commission or any
4 member employee of the Commission shall be referred to the Attorney General for
5 investigation. The Attorney General shall, upon receipt of a complaint, make an
6 appropriate investigation thereof, and the Attorney General shall forward a copy of the
7 investigation to the district attorney of the prosecutorial district as defined in
8 G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or
9 governmental unit who violates any provisions of this Chapter."

10 **SECTION 37.** G.S. 120C-800(c) reads as rewritten:

11 "(c) If a designated individual accepts a scholarship related to that
12 ~~person's~~designated individual's public service or position valued over two hundred
13 dollars (\$200.00) from a person, or group of persons, acting together, exempted or not
14 covered by this Chapter, the person, or group of persons, granting the scholarship shall
15 report the date of the scholarship, a description of the event involved, the name and
16 address of the person, or group of persons, granting the scholarship, the name of the
17 designated individual accepting the scholarship, and the estimated fair market value."

18 **SECTION 38.(a)** G.S. 120C-800(e) reads as rewritten:

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

- 20 (1) Lawful campaign contributions properly received and reported as
21 required under Article 22A of Chapter 163 of the General Statutes.
- 22 (2) Any ~~gift-reportable expenditure~~ from an extended family member to a
23 designated individual.
- 24 (3) ~~Gifts-Reportable expenditures~~ associated primarily with the designated
25 individual's employment or that ~~person's~~designated individual's
26 immediate family member's employment.
- 27 (4) ~~Gifts,Reportable expenditures,~~ other than food, beverages, travel, and
28 lodging, which are received from a person who is a citizen of a country
29 other than the United States or a state other than North Carolina and
30 given during a ceremonial presentation or as a custom.
- 31 (5) A thing of value that is paid for by the State.
- 32 (6) A scholarship paid for by a nonpartisan state, regional, national, or
33 international legislative organization of which the General Assembly is
34 a member or a legislator or legislative employee is a member or
35 participant of by virtue of that legislator's or legislative employee's
36 public position, or to an affiliated organization of that nonpartisan
37 state, regional, national, or international organization.
- 38 (7) A scholarship paid for by a nonpartisan state, regional, national, or
39 international organization of which a public servant's agency is a
40 member or a public servant is a member or participant of by virtue of
41 that public servant's public position, or to an affiliated organization of
42 that nonpartisan state, regional, national, or international
43 organization."

44 **SECTION 38.(b)** This section becomes effective January 1, 2007.

1 **SECTION 39.** G.S. 120C-800(g) reads as rewritten:

2 "(g) For purposes of this section, the term "scholarship" shall mean a grant-in-aid
3 to attend a conference, meeting, or other similar event. For purposes of this section only,
4 the term "person" shall include all persons as defined in G.S. 138A-3(27) and all
5 governmental units as defined in G.S. 138A-3(15d)."

6 **SECTION 40.** G.S. 138A-3(3) reads as rewritten:

7 "(3) Business with which associated. – A business in which the covered
8 person or filing person or any member of ~~the person's~~ that covered
9 person's or filing person's immediate family does any of the following:

- 10 a. Is an employee.
- 11 b. Holds a position as a director, officer, partner, proprietor, or
12 member or manager of a limited liability company, irrespective
13 of the amount of compensation received or the amount of the
14 interest owned.
- 15 c. Owns a legal, equitable, or beneficial interest of ten thousand
16 dollars (\$10,000) or more in the business or five percent (5%)
17 of the business, whichever is less, other than as a trustee on a
18 deed of trust.
- 19 d. Is a lobbyist registered under Chapter 120C of the General
20 Statutes.

21 For purposes of this subdivision, the term "business" shall
22 not include a widely held investment fund, including a mutual
23 fund, regulated investment company, or pension or deferred
24 compensation plan, if all of the following apply:

- 25 ~~a.~~1. The covered person or filing person, or a member of the
26 covered person's or filing person's immediate family
27 neither exercises nor has the ability to exercise control
28 over the financial interests held by the fund.
- 29 ~~b.~~2. The fund is publicly traded, or the fund's assets are
30 widely diversified."

31 **SECTION 41.** G.S. 138A-3(6) reads as rewritten:

32 "(6) Compensation. – Any money, thing of value, or economic benefit
33 conferred on or received by any covered person or filing person in
34 return for services rendered or to be rendered by that covered person or
35 filing person or another. This term does not include campaign
36 contributions properly received and, reported as required by Article
37 22A of Chapter 163 of the General Statutes."

38 **SECTION 42.** G.S. 138A-3(13) reads as rewritten:

39 "(13) Extended family. – Spouse, lineal descendant, lineal ascendant,
40 sibling, spouse's lineal descendant, spouse's lineal ascendant, spouse's
41 sibling, and the spouse of any of these ~~persons~~ individuals."

42 **SECTION 43.** G.S. 138A-3(14) reads as rewritten:

43 "(14) Filing person. – ~~A person~~ An individual required to file a statement of
44 economic interest under G.S. 138A-22."

1 **SECTION 44.** G.S. 138A-3 is amended by adding a new subdivision to
2 read:

3 "(15d) Governmental unit. – A political subdivision of the State, and any
4 other entity or organization created by a political subdivision of the
5 State."

6 **SECTION 45.** G.S. 138A-3(18) reads as rewritten:

7 "(18) Judicial employee. – The director and assistant director of the
8 Administrative Office of the Courts and any other ~~person~~individual,
9 designated by the Chief Justice, employed in the Judicial Department
10 whose annual compensation from the State is sixty thousand dollars
11 (\$60,000) or more."

12 **SECTION 46.** G.S. 138A-3(19) reads as rewritten:

13 "(19) Judicial officer. – Justice or judge of the General Court of Justice,
14 district attorney, clerk of court, or any ~~person~~individual elected or
15 appointed to any of these positions prior to taking office."

16 **SECTION 47.** G.S. 138A-3(22) reads as rewritten:

17 "(22) Legislator. – A member or presiding officer of the General Assembly,
18 or a ~~person~~an individual elected or appointed a member or presiding
19 officer of the General Assembly before taking office."

20 **SECTION 48.** G.S. 138A-3(24) reads as rewritten:

21 "(24) Nonprofit corporation or organization with which associated. – Any
22 not for profit corporation, organization, or association, incorporated or
23 otherwise, that is organized or operating in the State primarily for
24 religious, charitable, scientific, literary, public health and safety, or
25 educational purposes and of which the covered person or filing person
26 or any member of the covered person's or filing person's immediate
27 family is a director, officer, governing board member, employee,
28 lobbyist registered as ~~under~~ Chapter 120C of the General Statutes, or
29 independent contractor. Nonprofit corporation or organization with
30 which associated shall not include any board, entity, or other
31 organization created by this State or by any political subdivision of this
32 State."

33 **SECTION 49.** G.S. 138A-3(29) reads as rewritten:

34 "(29) Public event. – Any of the ~~following~~following to which the presence
35 or participation of a covered person or legislative employee is
36 requested in any manner at any time prior to the organized gathering:

- 37 a. An organized gathering of persons or governmental units open
38 to the general public to which all legislators or legislative
39 employees are invited to attend.
40 b. An organized gathering of a person or governmental unit to
41 which a legislator or legislative employee is invited along with
42 the entire membership of the House of Representatives, Senate,
43 a committee, a standing subcommittee, a county legislative
44 delegation, a municipal legislative delegation, a joint

1 committee, a joint commission, or a recognized legislative
2 caucus with regular meetings other than meetings with one or
3 more lobbyists, and one of the following apply:

4 1. At least 10 individuals associated with the person or
5 governmental unit actually attend, other than the
6 legislator or legislative employee, or the immediate
7 family of the legislator or legislative employee.

8 2. All shareholders, employees, board members, officers,
9 members, or subscribers of the person or governmental
10 unit located in North Carolina are notified and invited to
11 attend.

12 3. ~~The person is a governmental body and the organized~~
13 ~~gathering of any public body that is~~ subject to the open
14 meetings law.

15 c. An organized gathering of individuals open to the general
16 public to which at least 10 public servants are invited to attend.

17 d. An organized gathering of a ~~governmental body,~~public body,
18 the gathering of which is subject to the open meetings law, and
19 to which the entire board of which the public servant is a
20 member or at least 10 public servants are invited to attend.

21 e. An organized gathering of a person or governmental unit to
22 which the entire board of which the public servant is a member
23 or at least 10 public servants are invited to attend and to which
24 at least 10 individuals, other than the public servant, or the
25 public servant's immediate family, actually attend, or to which
26 all shareholders, employees, board members, officers, members,
27 or subscribers of the person or governmental unit who are
28 located in a specific North Carolina office or county are notified
29 and invited to attend."

30 **SECTION 50.** G.S. 138A-3(30)a. reads as rewritten:

31 "a. Constitutional officers of the State and ~~persons—~~individuals
32 elected or appointed as constitutional officers of the State prior
33 to taking office."

34 **SECTION 51.** G.S. 138A-3(30)d. reads as rewritten:

35 "d. The chief deputy and chief administrative assistant of each
36 ~~person—~~individual designated under sub-subdivision a. or c. of
37 this subdivision."

38 **SECTION 52.** G.S. 138A-3(30)e. reads as rewritten:

39 "e. Confidential assistants and secretaries as defined in
40 G.S. 126-5(c)(2), to ~~persons—~~individuals designated under
41 sub-subdivision a., c., or d. of this subdivision."

42 **SECTION 53.** G.S. 138A-3(30)m. reads as rewritten:

43 "m. ~~Persons—~~Individuals under contract with the State working in or
44 against a position included under this subdivision."

1 **SECTION 54.** G.S. 138A-3 is amended by adding a new subdivision to
 2 read:

3 "(30k) State agency. – An agency in the executive branch of the government
 4 of this State, including the Governor's Office, a board, a department, a
 5 division, and any other unit of government in the executive branch."

6 **SECTION 55.** G.S. 138A-10(a)(3)b. reads as rewritten:

7 "b. The names of ~~persons~~individuals subject to this Chapter as
 8 covered persons and legislative employees under
 9 G.S. 138A-11."

10 **SECTION 56.** G.S. 138A-11 reads as rewritten:

11 "**§ 138A-11. Identify and publish names of covered persons and legislative**
 12 **employees.**

13 The Commission shall identify and publish at least quarterly a listing of the names
 14 and positions of all ~~persons~~individuals subject to this Chapter as covered persons or
 15 legislative employees. The Commission shall also identify and publish at least annually
 16 a listing of all boards to which this Chapter applies. This listing may be published
 17 electronically on a public Internet Web site maintained by the Commission."

18 **SECTION 57.** G.S. 138A-12 reads as rewritten:

19 "**§ 138A-12. Inquiries by the Commission.**

20 ...

21 (b) Institution of Proceedings. – On its own motion, in response to a signed and
 22 sworn complaint of any individual filed with the Commission, or upon the written
 23 request of any public servant or ~~any person~~those responsible for the hiring, appointing,
 24 or supervising of a public servant, the Commission shall conduct an inquiry into any of
 25 the following:

- 26 (1) The application or alleged violation of this Chapter.
- 27 (2) For legislators, the application of alleged violations of Part 1 of Article
 28 14 of Chapter 120 of the General Statutes.
- 29 (3) An alleged violation of the criminal law by a covered person in the
 30 performance of that individual's official duties.
- 31 (4) An alleged violation of G.S. 126-14.

32 Allegations of violations of the Code of Judicial Conduct shall be referred to the
 33 Judicial Standards Commission without investigation.

34 (c) Complaint. –

- 35 (1) A sworn complaint filed under this Chapter shall state the name,
 36 address, and telephone number of the ~~person~~individual filing the
 37 complaint, the name and job title or appointive position of the covered
 38 person or legislative employee against whom the complaint is filed,
 39 and a concise statement of the nature of the complaint and specific
 40 facts indicating that a violation of this Chapter or Chapter 120 of the
 41 General Statutes has occurred, the date the alleged violation occurred,
 42 and either (i) that the contents of the complaint are within the
 43 knowledge of the individual verifying the complaint, or (ii) the basis

- 1 upon which the individual verifying the complaint believes the
2 allegations to be true.
- 3 (2) Except as provided in subsection (d) of this section, a complaint filed
4 under this Chapter must be filed within two years of the date the
5 complainant knew or should have known of the conduct upon which
6 the complaint is based.
- 7 (3) The Commission may decline to accept, refer, or conduct an inquiry
8 into any complaint that does not meet all of the requirements set forth
9 in subdivision (1) of this subsection, or the Commission may, in its
10 sole discretion, request additional information to be provided by the
11 complainant within a specified period of time of no less than seven
12 business days.
- 13 (4) In addition to subdivision (3) of this subsection, the Commission may
14 decline to accept, refer, or conduct an inquiry into a complaint if it
15 determines that any of the following apply:
- 16 a. The complaint is frivolous or brought in bad faith.
- 17 b. ~~The individuals~~ covered person or legislative employee and
18 conduct complained of have already been the subject of a prior
19 complaint.
- 20 c. The conduct complained of is primarily a matter more
21 appropriately and adequately addressed and handled by other
22 federal, State, or local agencies or authorities, including law
23 enforcement authorities. If other agencies or authorities are
24 conducting an investigation of the same actions or conduct
25 involved in a complaint filed under this section, the
26 Commission may stay its complaint inquiry pending final
27 resolution of the other investigation.
- 28 (5) The Commission shall send a copy of the complaint to the covered
29 person or legislative employee who is the subject of the complaint and
30 the employing entity, within 30 days of the filing.
- 31 ...
- 32 (f) Dismissal of Complaint After Preliminary Inquiry. – If the Commission
33 determines at the end of its preliminary inquiry that (i) the individual who is the subject
34 of the complaint is not a covered person or legislative employee subject to the
35 Commission's jurisdiction and authority under this Chapter, or (ii) the complaint does
36 not allege facts sufficient to constitute a violation within the jurisdiction of the
37 Commission under subsection (b) ~~if of~~ this section, the Commission shall dismiss the
38 complaint.
- 39 ...
- 40 (l) Notice of Dismissal. – Upon the dismissal of a complaint under this section,
41 the Commission shall provide written notice of the dismissal to the individual who filed
42 the complaint and the covered person or legislative employee against whom the
43 complaint was filed. The Commission shall forward copies of complaints and notices of
44 dismissal of complaints against legislators to the Committee, against legislative

1 employees to the employing entity for legislative employees, and against judicial
2 officers to the Judicial Standards Commission for complaints against justices and
3 judges, and the senior resident superior court judge of the district or county for
4 complaints against district attorneys, or the chief district court judge of the district or
5 county for complaints against clerks of court.

6 ...

7 (q) Continuing Jurisdiction. – The Commission shall have continuing jurisdiction
8 to investigate possible criminal violations of this Chapter for a period of one year
9 following the date ~~a person~~, an individual, who was formerly a public servant or
10 legislative employee, ceases to be a public servant or legislative employee for any
11 investigation that commenced prior to the date the public servant or legislative
12 employee ceases to be a public servant or legislative employee.

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

21"

22 **SECTION 58.** G.S. 138A-13(a) reads as rewritten:

23 "(a) At the request of any public servant or legislative employee, any individual
24 who is responsible for the supervision or appointment of ~~a person who is a~~ public
25 servant or legislative employee, legal counsel for any public servant, any ethics liaison
26 under G.S. 138A-14, or any member of the Commission, the Commission shall render
27 advisory opinions on specific questions involving the meaning and application of this
28 Chapter and the public servant's or legislative employee's compliance therewith. The
29 request shall be in writing, electronic or otherwise, and relate prospectively to real or
30 reasonably anticipated fact settings or circumstances. On its own motion, the
31 Commission may render advisory opinions on specific questions involving the meaning
32 and application of this Chapter. The Commission shall issue advisory opinions having
33 prospective application only. Reliance upon a requested written advisory opinion on a
34 specific matter shall immunize the public servant or legislative employee, on that
35 matter, from all of the following:

- 36 (1) Investigation by the Commission, except for an inquiry under
37 G.S. 138A-12(b)(3).
- 38 (2) Any adverse action by the employing entity.
- 39 (3) Investigation by the Secretary of State."

40 **SECTION 59.** G.S. 138A-14(b) reads as rewritten:

41 "(b) The Commission shall make basic ethics education and awareness
42 presentations to all public servants and their immediate staffs, upon their election,
43 appointment, or employment, and shall offer periodic refresher presentations as the
44 Commission deems appropriate. Every public servant and the immediate staff of every

1 public servant shall participate in an ethics presentation approved by the Commission
2 within six months of the ~~person's~~public servant's election, reelection, appointment, or
3 employment, and shall attend refresher ethics education presentations at least every two
4 years thereafter in a manner as the Commission deems appropriate."

5 **SECTION 60.** G.S. 138A-14(c) reads as rewritten:

6 "(c) The Commission, jointly with the Committee, shall make basic ethics
7 education and awareness presentations to all legislators and legislative employees upon
8 their election, reelection, appointment, or employment and shall offer periodic refresher
9 presentations as the Commission and the Committee deem appropriate. Every legislator
10 and legislative employee shall participate in an ethics presentation approved by the
11 Commission and Committee within three months of the ~~person's~~legislator or legislative
12 employee's election, reelection, appointment, or employment, and every legislative
13 employee shall attend refresher ethics education presentations at least every two years
14 thereafter, in a manner as the Commission and Committee deem appropriate."

15 **SECTION 61.** G.S. 138A-15(b) reads as rewritten:

16 "(b) The head of each State agency, including the chair of each board subject to
17 this Chapter, shall maintain familiarity with and stay knowledgeable of the reports,
18 opinions, newsletters, and other communications from the Commission regarding ethics
19 in general and the interpretation and enforcement of this Chapter. The head of each
20 State agency and the chair of each board shall also maintain familiarity with and stay
21 knowledgeable of the Commission's reports, evaluations, opinions, or findings
22 regarding individual public servants in that ~~person's~~individual's agency or on that
23 ~~person's~~individual's board, or under that ~~person's~~individual's supervision or control,
24 including all reports, evaluations, opinions, or findings pertaining to actual or potential
25 conflicts of interest."

26 **SECTION 62.** G.S. 138A-15(d) reads as rewritten:

27 "(d) The head of each State agency, including the chair of each board subject to
28 this Chapter, shall periodically remind public servants under that ~~person's~~individual's
29 authority of the public servant's duties to the public under the ethical standards and rules
30 of conduct in this Chapter, including the duty of each public servant to continually
31 monitor, evaluate, and manage the public servant's personal, financial, and professional
32 affairs to ensure the absence of conflicts of interest."

33 **SECTION 63.** G.S. 138A-21 reads as rewritten:

34 "**§ 138A-21. Purpose.**

35 The purpose of disclosure of the financial and personal interests by covered persons
36 is to assist covered persons and those ~~persons~~ who appoint, elect, hire, supervise, or
37 advise them identify and avoid conflicts of interest and potential conflicts of interest
38 between the covered person's private interests and the covered person's public duties. It
39 is critical to this process that current and prospective covered persons examine,
40 evaluate, and disclose those personal and financial interests that could be or cause a
41 conflict of interest or potential conflict of interest between the covered person's private
42 interests and the covered person's public duties. Covered persons must take an active,
43 thorough, and conscientious role in the disclosure and review process, including having
44 a complete knowledge of how the covered person's public position or duties might

1 impact the covered person's private interests. Covered persons have an affirmative duty
2 to provide any and all information that a reasonable person would conclude is necessary
3 to carry out the purposes of this Chapter and to fully disclose any conflict of interest or
4 potential conflict of interest between the covered person's public and private interests,
5 but the disclosure, review, and evaluation process is not intended to result in the
6 disclosure of unnecessary or irrelevant personal information."

7 **SECTION 64.** G.S. 138A-22 reads as rewritten:

8 **"§ 138A-22. Statement of economic interest; filing required.**

9 (a) Every covered person subject to this Chapter who is elected, appointed, or
10 employed, including one appointed to fill a vacancy in elective office, except for public
11 servants included under G.S. 138A-3(30)b., e., f., or g. whose annual compensation
12 from the State is less than sixty thousand dollars (\$60,000), shall file a statement of
13 economic interest with the Commission prior to the covered person's initial
14 appointment, election, or employment and no later than April 15 of every year
15 thereafter, except as otherwise filed under subsections (c1) and (d) of this section. A
16 prospective covered person required to file a statement under this Chapter shall not be
17 appointed, employed, or receive a certificate of election, prior to submission by the
18 Commission of the Commission's evaluation of the statement in accordance with this
19 Article. The requirement for an annual filing under this subsection also shall apply to
20 covered persons whose terms have expired but who continue to serve until the covered
21 person's replacement is appointed. Once a statement of economic interest is properly
22 completed and filed under this Article, the statement of economic interest does not need
23 to be supplemented or refiled prior to the next due date set forth in this subsection.

24 (b) Notwithstanding subsection (a) of this section, ~~persons~~individuals hired by,
25 and appointees of, constitutional officers of the State may file a statement of economic
26 interest within 30 days after their appointments or employment when the appointment or
27 employment is made during the first 60 days of the constitutional officer's initial term in
28 that constitutional office.

29 ...

30 (d) A candidate for an office subject to this Article shall file the statement of
31 economic interest at the same place and in the same manner as the notice of candidacy
32 for that office is required to be filed under G.S. 163-106 or G.S. 163-323 within 10 days
33 of the filing deadline for the office the candidate seeks. ~~A person~~An individual who is
34 nominated under G.S. 163-114 after the primary and before the general election, and a
35 ~~person~~an individual who qualifies under G.S. 163-122 as an unaffiliated candidate in a
36 general election, shall file a statement of economic interest with the county board of
37 elections of each county in the senatorial or representative district. ~~A person~~An
38 individual nominated under G.S. 163-114 shall file the statement within three days
39 following the ~~person's~~individual's nomination, or not later than the day preceding the
40 general election, whichever occurs first. ~~A person~~An individual seeking to qualify as an
41 unaffiliated candidate under G.S. 163-122 shall file the statement of economic interest
42 with the petition filed under that section. ~~A person~~An individual seeking to have
43 write-in votes counted for ~~the person~~that individual in a general election shall file a
44 statement of economic interest at the same time the candidate files a declaration of

1 intent under G.S. 163-123. A candidate of a new party chosen by convention shall file a
2 statement of economic interest at the same time that the president of the convention
3 certifies the names of its candidates to the State Board of Elections under G.S. 163-98.

4"

5 **SECTION 65.** G.S. 138A-23(b) reads as rewritten:

6 "(b) The statements of economic interest filed by prospective public servants, and
7 the written evaluations by the Commission of those statements, for ~~persons~~individuals
8 elected by the General Assembly shall be provided to the chair of the standing
9 committee handling the legislation regarding the election and made available to all
10 members of the General Assembly. The statements of economic interest filed by public
11 servants elected to positions by the General Assembly, and written evaluations by the
12 Commission of those statements, are not public records until the prospective public
13 servant is sworn into office."

14 **SECTION 66.** G.S. 138A-23(c) reads as rewritten:

15 "(c) The statements of economic interest filed by prospective public servants, and
16 the written evaluations by the Commission of those statements, for ~~persons~~individuals
17 confirmed for appointment as a public servant by the General Assembly shall be
18 provided to the chair of the standing committee handling the legislation regarding the
19 appointment. The statements of economic interest filed by prospective public servants
20 for confirmation for appointment by the General Assembly, and written evaluations by
21 the Commission of those statements, are public records at the time of the announcement
22 of the appointment."

23 **SECTION 67.** G.S. 138A-24(a)(1) reads as rewritten:

24 "(1) Except as otherwise provided in this subdivision, the name, current
25 mailing address, occupation, employer, and business of the filing
26 person. Any ~~person~~individual holding or seeking elected office for
27 which residence is a qualification for office shall include a home
28 address. A judicial officer may use a current mailing address instead of
29 the home address on the form required in this subsection. The judicial
30 officer may also use the initials instead of the name of any
31 unemancipated child of the judicial officer who also resides in the
32 household of the judicial officer. If the judicial officer provides the
33 initials of an unemancipated child, the judicial officer shall
34 concurrently provide the name of the unemancipated child to the
35 Commission. The name of an unemancipated child provided by the
36 judicial officer to the Commission shall not be a public record under
37 Chapter 132 of the General Statutes and is privileged and
38 confidential."

39 **SECTION 68.** G.S. 138A-24(a)(2)h. reads as rewritten:

40 "h. A list of all nonpublicly owned businesses of which the filing
41 person is an officer, employee, director, partner, owner, or
42 member or manager of a limited liability company."

43 **SECTION 69.** G.S. 138A-24(a)(6) reads as rewritten:

1 "(6) An indication of whether the filing person, the filing person's
2 employer, a member of the filing person's immediate family, or the
3 immediate family member's employer is licensed or regulated by, or
4 has a business relationship with, the board or employing entity with
5 which the filing person is or will be associated. This subdivision does
6 not apply to a ~~legislator or a judicial officer~~ legislator, a judicial
7 officer, or that legislator's or judicial officer's immediate family."

8 **SECTION 70.** G.S. 138A-24(a)(7) reads as rewritten:

9 "(7) A list of societies, organizations, or advocacy groups, pertaining to
10 subject matter areas over which the public servant's agency or board
11 may have jurisdiction, in which the public servant or a member of the
12 public servant's immediate family is a director, officer, or governing
13 board member. This subdivision does not apply to a legislator, a
14 judicial officer, or that ~~person's~~ legislator's or judicial officer's
15 immediate family."

16 **SECTION 71.** G.S. 138A-24(a)(8) reads as rewritten:

17 "(8) A list of all things with a total value of over two hundred dollars
18 (\$200.00) per calendar quarter given and received without valuable
19 consideration and under circumstances that a reasonable person would
20 conclude that the thing was given for the purpose of lobbying, if such
21 things were given by a person not required to report under Chapter
22 120C of the General Statutes, excluding things given by a member of
23 the filing person's extended family. The list shall include only those
24 things received during the 12 months preceding the reporting period
25 under subsection (d) of this section, and shall include the source of
26 those things. The list required by this subdivision shall not apply to
27 things of monetary value received by the filing person prior to the time
28 the filing person filed or was nominated as a candidate for office, as
29 described in G.S. 138A-22, or was appointed or employed as a covered
30 person."

31 **SECTION 72.(a)** G.S. 138A-24(a)(10) reads as rewritten:

32 "(10) Any other ~~economic or financial~~ information that the filing person
33 believes may assist the Commission in advising the filing person with
34 regards to compliance with this Chapter. is necessary either to carry
35 out the purposes of this Chapter or to fully disclose any conflict of
36 interest or potential conflict of interest. If the filing person believes a
37 potential for conflict exists, the filing person has a duty to inquire of
38 the Commission as to that potential conflict. If a filing person is
39 uncertain of whether particular information is necessary, then the filing
40 person shall consult the Commission for guidance."

41 **SECTION 72.(b)** This section becomes effective January 1, 2007, and
42 applies to statements of economic interest filed on or after that date.

43 **SECTION 73.** G.S. 138A-24(b) reads as rewritten:

1 "(b) The Supreme Court, the Committee, constitutional officers of the State, heads
2 of principal departments, the Board of Governors of The University of North Carolina,
3 the State Board of Community Colleges, other boards, and the appointing authority or
4 employing entity may require a filing person to file supplemental information in
5 conjunction with the filing of that filing person's statement of economic interest. These
6 supplemental filings requirements shall be filed with the Commission and included on
7 the forms to be filed with the Commission. The Commission shall evaluate the
8 supplemental forms as part of the statement of economic interest. The failure to file
9 supplemental forms shall be subject to the provisions of G.S. 138A-25."

10 **SECTION 74.** G.S. 138A-24(e) reads as rewritten:

11 "(e) The Commission shall prepare a written evaluation of each statement of
12 economic interest relative to conflicts of interest and potential conflicts of interest. This
13 subsection does not apply to statements of economic interest of legislators and judicial
14 officers. The Commission shall submit the evaluation to all of the following:

- 15 (1) The filing person who submitted the statement.
- 16 (2) The head of the agency in which the filing person serves.
- 17 (3) The Governor for gubernatorial appointees and employees in agencies
18 under the Governor's authority.
- 19 (4) ~~The Chief Justice for judicial officers and judicial employees.~~
- 20 (5) The appointing or hiring authority for those public servants not under
21 the Governor's authority.
- 22 (6) The State Board of Elections for those filing persons who are elected.
- 23 (7) ~~The Committee, together with a copy of the statement of economic~~
24 ~~interest, for legislators."~~

25 **SECTION 75.** G.S. 138A-25(a) reads as rewritten:

26 "(a) Within 30 days after the date due under G.S. 138A-22, the Commission shall
27 notify filing persons who have failed to file or filing persons whose statement has been
28 deemed incomplete. For a filing person currently serving as a covered person, the
29 Commission shall notify the filing person that if the statement of economic interest is
30 not filed or completed within 30 days of receipt of the notice of failure to file or
31 complete, the filing person shall be subject to a fine as provided for in this section."

32 **SECTION 76.** G.S. 138A-32(a) reads as rewritten:

33 "(a) A covered person or a legislative employee shall not knowingly, directly or
34 indirectly, ask, accept, demand, exact, solicit, seek, assign, receive, or agree to receive
35 anything of value for the covered person or legislative employee, or for another
36 ~~person, person or governmental unit,~~ in return for being influenced in the discharge of
37 the covered person's or legislative employee's official responsibilities, other than that
38 which is received by the covered person or the legislative employee from the State for
39 acting in the covered person's or legislative employee's official capacity."

40 **SECTION 77.** G.S. 138A-32(c) reads as rewritten:

41 "(c) No public servant, legislator, or legislative employee shall knowingly accept
42 a gift from a lobbyist or lobbyist principal registered under Chapter 120C of the General
43 Statutes. No legislator or legislative employee shall knowingly accept a gift from liaison
44 personnel designated under Chapter 120C of the General Statutes. No public servant,

1 legislator, or legislative employee shall accept a gift from a third party knowing all of
2 the following:

- 3 (1) The third party obtained the gift from a ~~lobbyist or lobbyist~~
4 ~~principal lobbyist, lobbyist's principal, or liaison personnel~~ registered
5 under Chapter 120C of the General Statutes. A third party includes a
6 person, the State, and a governmental unit.
- 7 (2) The lobbyist or lobbyist principal registered under Chapter 120C of the
8 General Statutes intended for the ultimate recipient of the gift to be a
9 public servant, legislator, or legislative employee as provided in
10 G.S. 120C-303."

11 **SECTION 78.** G.S. 138A-32(d1) reads as rewritten:

12 "(d1) No public servant shall accept a gift from a third party knowing all of the
13 following:

- 14 (1) The third party obtained the gift from a person described under
15 subdivisions (d)(1), (2), and (3) of this section. A third party includes a
16 person, the State, and a governmental unit.
- 17 (2) The person described under subdivisions (d)(1), (2), and (3) of this
18 section intended for the ultimate recipient of the gift to benefit the
19 public servant."

20 **SECTION 79.** G.S. 138A-32(e)(1) reads as rewritten:

- 21 "(1) Food and beverages for immediate consumption in connection with
22 ~~public events; a public event.~~"

23 **SECTION 80.** G.S. 138A-32(e)(3) reads as rewritten:

- 24 "(3) Reasonable actual expenditures of the legislator, public servant, or
25 legislative employee for food, beverages, registration, travel, lodging,
26 other incidental items of nominal value, and entertainment, in
27 connection with (i) a legislator's, public servant's, or legislative
28 employee's attendance at an educational meeting for purposes
29 primarily related to the public duties and responsibilities of the
30 legislator, public servant, or legislative employee; (ii) a legislator's,
31 public servant's, or legislative employee's participation as a speaker or
32 member of a panel at a meeting; (iii) a legislator's or legislative
33 employee's attendance and participation in meetings of a nonpartisan
34 state, regional, national, or international legislative organization of
35 which the General Assembly is a member or that the legislator or
36 legislative employee is a member or participant of by virtue of that
37 ~~person's~~ legislator's or legislative employee's public position, or as
38 a member of a board, agency, or committee of such organization; or (iv)
39 a public servant's attendance and participation in meetings as a
40 member of a board, agency, or committee of a nonpartisan state,
41 regional, national, or international organization of which the public
42 servant's agency is a member or the public servant is a member by
43 virtue of that ~~person's~~ public servant's public position, provided the
44 following conditions are met:

- 1 a. The reasonable actual expenditures shall be made by a
- 2 lobbyist's principal, and not a lobbyist.
- 3 b. Any meeting must be attended by at least 10 or more
- 4 participants, have a formal agenda, and notice of the meeting
- 5 has been given at least 10 days in advance.
- 6 c. Any food, beverages, transportation, or entertainment must be
- 7 provided to all attendees or defined groups of 10 or more
- 8 attendees as part of the meeting or in conjunction with the
- 9 meeting.
- 10 d. Any entertainment must be incidental to the principal agenda of
- 11 the meeting.
- 12 e. If the legislator, public servant, or legislative employee is
- 13 participating as a speaker or member of a panel, then that
- 14 legislator, public servant, or legislative employee must be a
- 15 bona fide speaker or participant."

16 **SECTION 81.** G.S. 138A-32(e)(10)a. reads as rewritten:

- 17 "a. The relationship is not related to the covered person's or
- 18 legislative employee's public service or position."

19 **SECTION 82.** G.S. 138A-32(e)(12) reads as rewritten:

20 "(12) Food and beverages for immediate consumption at an organized

21 gathering of a person or governmental unit to which a public servant is

22 invited to attend for purposes primarily related to the public servant's

23 public service or position, and to which at least 10 individuals, other

24 than the public servant, or the public servant's immediate family,

25 actually attend, or to which all shareholders, employees, board

26 members, officers, members, or subscribers of the person or

27 governmental unit who are located in a specific North Carolina office

28 or county are notified and invited to attend."

29 **SECTION 83.** G.S. 138A-34 reads as rewritten:

30 **"§ 138A-34. Use of information for private gain.**

31 A public servant or legislative employee shall not use or disclose nonpublic

32 information gained in the course of, or by reason of, the public servant's or legislative

33 employee's official responsibilities in a way that would affect a personal financial

34 interest of the public servant or legislative employee, a member of the public servant's

35 or legislative employee's extended family, or a person or governmental unit with whom

36 or business with which the public servant or legislative employee is associated. A public

37 servant or legislative employee shall not improperly use or improperly disclose any

38 confidential information."

39 **SECTION 84.(a)** G.S. 138A-36 reads as rewritten:

40 **"§ 138A-36. Public servant participation in official actions.**

41 (a) Except as permitted by subsection (d) of this section and under G.S. 138A-38,

42 no public servant acting in that capacity, authorized to perform an official action

43 requiring the exercise of discretion, shall ~~knowingly~~ participate in an official action by

44 the employing entity if the public servant, ~~a member of the public servant's extended~~

1 family, a business with which the public servant is associated, or a nonprofit corporation
2 or organization with which the public servant is associated, has an economic interest in,
3 or servant knows the public servant or a person with which the public servant is
4 associated may incur a reasonably foreseeable financial benefit from, from the matter
5 under consideration, which would impair the public servant's independence of judgment
6 or from which it could reasonably be inferred that the ~~interest or~~ financial benefit would
7 influence the public servant's participation in the official action. A ~~potential benefit~~
8 ~~includes an economic or financial detriment to a business competitor of (i) the public~~
9 ~~servant, (ii) a member of the public servant's extended family, (iii) a business with~~
10 ~~which the public servant is associated, or (iv) a nonprofit corporation or organization~~
11 ~~with which the public servant is associated. A benefit also includes an economic or~~
12 ~~financial detriment to (i) the public servant, (ii) a member of the public servant's~~
13 ~~extended family, (iii) a business with which the public servant is associated, or (iv) a~~
14 ~~nonprofit corporation or organization with which the public servant is associated.~~

15 ...

16 (d) If a public servant is uncertain whether the relationship described in
17 subsection (c) of this section justifies removing the public servant from the proceeding
18 under subsection (c) of this section, the public servant shall disclose the relationship to
19 the ~~person~~ individual presiding over the proceeding and seek appropriate guidance. The
20 presiding officer, in consultation with legal counsel if necessary, shall then determine
21 the extent to which the public servant will be permitted to participate. If the affected
22 public servant is the ~~person~~ individual presiding, then the vice-chair or any other
23 substitute presiding officer shall make the determination. A good-faith determination
24 under this subsection of the allowable degree of participation by a public servant is
25 presumptively valid and only subject to review under G.S. 138A-12 upon a clear and
26 convincing showing of mistake, fraud, abuse of discretion, or willful disregard of this
27 Chapter.

28"

29 **SECTION 84.(b)** G.S. 138A-37 reads as rewritten:

30 "**§ 138A-37. Legislator participation in official actions.**

31 (a) Except as permitted under G.S. 138A-38, no legislator shall ~~knowingly~~
32 participate in a legislative action if the ~~legislator, a member of the legislator's extended~~
33 ~~family, the legislator's client, a business with which the legislator is associated, or a~~
34 ~~nonprofit corporation or organization with which the legislator is associated, has an~~
35 ~~economic interest in, or~~ legislator knows the legislator or a person with which the
36 legislator is associated may incur a reasonably and foreseeably foreseeable financial
37 benefit from the action, and if after considering whether the legislator's judgment would
38 be substantially influenced by the ~~interest~~ financial benefit and considering the need for
39 the legislator's particular contribution, including special knowledge of the subject matter
40 to the effective functioning of the legislature, the legislator concludes that an actual
41 ~~economic interest~~ financial benefit does exist which would impair the legislator's
42 independence of judgment. A ~~potential benefit includes an economic or financial~~
43 ~~detriment to a business competitor of (i) the legislator, (ii) a member of the legislator's~~
44 ~~extended family, (iii) a business with which the legislator is associated, or (iv) a~~

1 ~~nonprofit corporation or organization with which the legislator is associated. A benefit~~
 2 ~~also includes an economic or financial detriment to (i) the legislator, (ii) a member of~~
 3 ~~the legislator's extended family, (iii) a business with which the legislator is associated,~~
 4 ~~or (iv) a nonprofit corporation or organization with which the legislator is associated.~~

5 (a1) The legislator shall submit in writing to the principal clerk of the house of
 6 which the legislator is a member the reasons for the abstention from participation in the
 7 legislative matter.

8 (b) If the legislator has a material doubt as to whether the legislator should act,
 9 the legislator may submit the question for an advisory opinion to the State Ethics
 10 Commission in accordance with G.S. 138A-13 or the Legislative Ethics Committee in
 11 accordance with G.S. 120-104."

12 **SECTION 84.(c)** G.S. 138A-3 reads as rewritten:

13 **"§ 138A-3. Definitions.**

14 The following definitions apply in this Chapter:

15 ...
 16 (11) ~~Economic interest. — Matters involving a business with which~~
 17 ~~associated or a nonprofit corporation or organization with which~~
 18 ~~associated.~~

19 ...
 20 (14c) Financial benefit. – A direct pecuniary gain or loss to the legislator, the
 21 public servant, or a person with which the legislator or public servant
 22 is associated, or a direct pecuniary loss to a business competitor of the
 23 legislator, the public servant, or a person with which the legislator or
 24 public servant is associated.

25 ...
 26 (27c) Person with which the legislator is associated. – Any of the following:
 27 a. A member of the legislator's extended family.
 28 b. A client of the legislator.
 29 c. A business with which the legislator or a member of the
 30 legislator's immediate family is associated.
 31 d. A nonprofit corporation or association with which the legislator
 32 or a member of the legislator's immediate family is associated.
 33 e. The State, a political subdivision of the State, a board, or any
 34 other entity or organization created by the State or a political
 35 subdivision of the State, that employs the legislator or a
 36 member of the legislator's immediate family.

37 (27d) Person with which the public servant is associated. – Any of the
 38 following:
 39 a. A member of the public servant's extended family.
 40 b. A client of the public servant.
 41 c. A business with which the public servant or a member of the
 42 public servant's immediate family is associated.

- d. A nonprofit corporation or association with which the public servant or a member of the public servant's immediate family is associated.
- e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State, that employs the public servant or a member of the public servant's immediate family.

...."

SECTION 85. G.S. 138A-38 is amended by adding the following new subsections to read:

"(c) Notwithstanding G.S. 138A-37, if a legislator is employed or retained by, or is an independent contractor of, a governmental unit, and the legislator is the only member of the house elected from the district where that governmental unit is located, then the legislator may take legislative action on behalf of that governmental unit provided the legislator discloses in writing to the principal clerk the nature of the relationship with the governmental unit prior to, or at the time of, taking the legislative action.

(d) Notwithstanding G.S. 138A-36, service by the president, chief financial officer, chief administrative officer, or voting member of the board of trustees of a community college as an officer, employee, or member of the board of directors of a nonprofit corporation established under G.S. 115D-20(9) to support the community college shall not constitute a conflict of interest under G.S. 138A-36, provided that the majority of the nonprofit corporation's board of directors is not comprised of the president, chief financial officer, and chief administrative officer, or voting members of the board of trustees of the community college which the nonprofit corporation was created to support."

SECTION 86. G.S. 163-278.13C(a)(2) reads as rewritten:

"(2) Is a public servant as defined in ~~G.S. 138A-3(30)a.~~ G.S. 138A-3(30)a. and G.S. 120C-104."

SECTION 87. G.S. 163-278.16B(a)(3) reads as rewritten:

"(3) ~~Contributions-Donations~~ to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization."

SECTION 88. G.S. 114-15(a) reads as rewritten:

"(a) The Bureau shall, through its Director and upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State; shall investigate all cases arising from frauds in connection with elections when requested to do so by the Board of Elections, and when so directed by the Governor. Such investigation, however, shall in nowise interfere with the power of the Attorney General to make such investigation as ~~he~~ the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the

1 State, of violations of the gaming laws, and lottery laws, and matters of similar kind
2 when called upon by the Governor so to do. In all such cases it shall be the duty of the
3 Department to keep such records as may be necessary and to prepare evidence in the
4 cases investigated, for the use of enforcement officers and for the trial of causes. The
5 services of the Director of the Bureau, and of ~~his~~ the Director's assistants, may be
6 required by the Governor in connection with the investigation of any crime committed
7 anywhere in the State when called upon by the enforcement officers of the State, and
8 when, in the judgment of the Governor, such services may be rendered with advantage
9 to the enforcement of the criminal law. The State Bureau of Investigation is hereby
10 authorized to investigate without request the attempted arson of, or arson of, damage of,
11 theft from, or theft of, or misuse of, any State-owned personal property, buildings, or
12 other real property or any assault upon or threats against any legislative officer named in
13 G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court
14 officer as defined in G.S. 14-16.10(1). The Bureau also is authorized at the request of
15 the Governor to conduct a background investigation on a person that the Governor plans
16 to nominate for a position that must be confirmed by the General Assembly, the Senate,
17 or the House of Representatives. The background investigation of the proposed nominee
18 shall be limited to an investigation of the person's criminal record, educational
19 background, employment record, records concerning the listing and payment of taxes,
20 and credit record, and to a requirement that the person provide the information
21 contained in the statements of economic interest required to be filed by persons subject
22 to ~~Executive Order Number 1, filed on January 31, 1985, as contained on pages 1405~~
23 ~~through 1419 of the 1985 Session Laws (First Session, 1985).~~ Chapter 138A of the
24 General Statutes. The Governor must give the person being investigated written notice
25 that ~~he~~ the Governor intends to request a background investigation at least 10 days prior
26 to the date that ~~he~~ the Governor requests the State Bureau of Investigation to conduct
27 the background investigation. The written notice shall be sent by regular mail, and there
28 is created a rebuttable presumption that the person received the notice if the Governor
29 has a copy of the notice."

30 **SECTION 89.** G.S. 120-19.4A reads as rewritten:

31 "**§ 120-19.4A. Requests to State Bureau of Investigation for background**
32 **investigation of a person who must be confirmed by legislative action.**

33 The President of the Senate or the Speaker of the House may request that the State
34 Bureau of Investigation perform a background investigation on a person who must be
35 appointed or confirmed by the General Assembly, the Senate, or the House of
36 Representatives. The person being investigated shall be given written notice by regular
37 mail at least 10 days prior to the date that the State Bureau of Investigation is requested
38 to perform the background investigation by the presiding officer of the body from which
39 the request originated. There is a rebuttable presumption that the person being
40 investigated received the notice if the presiding officer has a copy of the notice. The
41 State Bureau of Investigation shall perform the requested background investigation and
42 shall provide the information, including criminal records, to the presiding officer of the
43 body from which the request originated. A copy of the information also shall be
44 provided to the person being investigated. The term "background investigation" shall be

1 limited to an investigation of a person's criminal record, educational background,
2 employment record, records concerning the listing and payment of taxes, and credit
3 record, and to a requirement that the person provide the information contained in the
4 statements of economic interest required to be filed by persons subject to ~~Executive~~
5 ~~Order Number 1, filed on January 31, 1985, as contained on pages 1405 through 1419~~
6 ~~of the 1985 Session Laws (First Session, 1985). Chapter 138A of the General Statutes."~~

7 **SECTION 90.** The Revisor of Statutes shall change the term "Lobbyist's
8 Principal" to "Lobbyist Principal" wherever it appears in Chapter 138A and Chapter
9 120C of the General Statutes. The Revisor of Statutes shall change the term "Lobbyist's
10 Principals" to "Lobbyist Principals" wherever it appears in Chapter 138A and Chapter
11 120C of the General Statutes. The Revisor of Statutes shall change the term "Lobbyist's
12 Principal's" to "Lobbyist Principal's" wherever it appears in Chapter 138A and Chapter
13 120C of the General Statutes.

14 **SECTION 91.** Section 44 of S.L. 2007-348 reads as rewritten:

15 "SECTION 44. Sections 17, 23, 39, 40 and 41 of this act are effective January 1,
16 2007. Section 9 of this act is effective July 1, 2007. Sections 8, 11, 15, 20, 22, 25, 34
17 and 42 of this act become effective October 1, 2007. Section 18 of this act becomes
18 effective December 1, 2007. Section 34 of this act becomes effective January 1, 2008.
19 The remainder of this act is effective when this act becomes law."

20 **SECTION 92.** Except as otherwise specifically provided in this act, this act
21 is effective when it becomes law.