

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2542
Committee Substitute Favorable 7/8/08
Committee Substitute #2 Favorable 7/14/08

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, advisory opinions issued under this section, ~~and recommended~~ advisory
opinions received from the State Ethics ~~Commission~~ Commission, and all records and
information relating to these opinions 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, records, or information, to any other person,
State agency or governmental unit. For purposes of this subsection, "records" shall
include any records or information relating to a request for advice under this section,
including the request for advice, the response to the request for advice, and supporting

1 information, notes, and research related to the request. For purposes of this subsection,
2 "information" shall include the fact of the request or response, the identity of the
3 individual making the request or on whose behalf the request was made, or the response
4 to the request."

5 **SECTION 2.(b)** G.S. 138A-13 reads as rewritten:

6 **"§ 138A-13. ~~Advisory opinions.~~Request for advice.**

7 (a) At the request of any public servant or legislative employee, any individual
8 who is responsible for the supervision or appointment of ~~a person who is a~~ public
9 servant or legislative employee, legal counsel for any public ~~servant,~~servant or
10 legislative employee, any ethics liaison under G.S. 138A-14, or any member of the
11 Commission, the Commission shall render advice, including formal and informal
12 advisory ~~opinions~~ opinions, on specific questions involving the meaning and application
13 of this Chapter and the public servant's or legislative employee's compliance therewith.
14 ~~The request shall be in writing, electronic or otherwise, and Requests for advice and~~
15 advice rendered in response to those requests shall relate prospectively to real or
16 reasonably anticipated fact settings or circumstances. On its own motion, the
17 Commission may render advisory opinions on specific questions involving the meaning
18 and application of this Chapter.

19 (a1) A request for a formal opinion under subsection (a) of this section shall be in
20 writing, electronic or otherwise. The Commission shall issue formal advisory opinions
21 having prospective application only. Reliance upon a requested ~~written formal~~ advisory
22 opinion on a specific matter shall immunize the public servant or legislative employee,
23 on that matter, from all of the following:

24 (1) Investigation by the Commission, except for an inquiry under
25 G.S. 138A-12(b)(3).

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

27 (3) Investigation by the Secretary of State.

28 (b) At the request of a legislator, the Commission shall render advice, including
29 informal and recommended formal advisory opinions on specific questions involving
30 the meaning and application of this Chapter and Part 1 of Article 14 of Chapter 120 of
31 the General Statutes, and the legislator's compliance therewith. ~~The request shall be in~~
32 writing, electronic or otherwise, and Requests for advisory opinions shall relate
33 prospectively to real or reasonably anticipated fact settings or circumstances.

34 (b1) A request for a recommended formal advisory opinion under subsection (b)
35 of this section shall be in writing, electronic or otherwise. The Commission shall issue
36 advisory opinions having prospective application only. Until action is taken by the
37 Committee under G.S. 120-104, reliance upon a requested ~~written recommended formal~~
38 advisory opinion on a specific matter shall immunize the legislator, on that matter, from
39 all of the following:

40 (1) Investigation by the Committee or Commission, except for an inquiry
41 under G.S. 138A-12(b)(3).

42 (2) Any adverse action by the house of which the legislator is a member.

43 (3) Investigation by the Secretary of State.

1 Any recommended formal advisory opinion issued to a legislator under this subsection
2 shall immediately be delivered to the chairs of the Committee, together with a copy of
3 the request. Except for the Lieutenant Governor, the immunity granted under this
4 subsection shall not apply after the time the Committee modifies or overturns the
5 advisory opinion of the Commission in accordance with G.S. 120-104.

6 (c) Staff to the Commission may issue advice, including informal but not formal
7 advisory opinions-opinions, under procedures adopted by the Commission.

8 (d) The Commission shall publish its formal advisory opinions at least once a
9 year within 30 days of issuance. These advisory opinions shall be edited for publication
10 purposes as necessary to protect the identities of the individuals requesting opinions.
11 When the Commission issues a recommended formal advisory opinion to a legislator
12 under ~~subsection (b)~~ subsection (b1) of this section, the Commission shall publish only
13 the edited formal advisory opinion of the Committee upon its submission to the
14 Commission within 30 days of receipt of the edited opinion from the Committee.

15 (e) Except as provided under ~~subsection (d)~~ subsections (d) and (e1) of this
16 section, requests for all records and information relating to advice, including formal and
17 informal advisory opinions, and advisory opinions issued under given pursuant to this
18 section, are confidential and not public records. The individual requesting and receiving
19 advice under this section may authorize release of the advisory opinion, or any other
20 confidential record or information, to any other person, State agency or governmental
21 unit. No present or former Commission member or employee may disclose confidential
22 records under this section unless specifically authorized by this section. Violation of this
23 prohibition shall be grounds for disciplinary action, including termination of
24 employment. For purposes of this subsection, "confidential records" shall include any
25 records or information relating to a request for advice under this section, including the
26 request for advice, the response to the request for advice, and supporting information,
27 notes, and research related to the request. For purposes of this subsection, "information"
28 shall include the fact of the request or response, the identity of the individual making the
29 request or on whose behalf the request was made, or the response to the request.

30 (e1) Staff to the Commission may share all information related to requests made
31 under ~~subsection (b)~~ subsections (b) and (b1) of this section with staff to the Committee,
32 and staff to the Committee shall treat that information as confidential and not a public
33 record.

34 (f) This section shall not apply to judicial officers.

35 (g) Requests for advisory opinions may be withdrawn by the requestor at any
36 time prior to the issuance of ~~an a~~ a formal advisory opinion."

37 **SECTION 2.(c)** G.S. 120C-102 reads as rewritten:

38 **"§ 120C-102. ~~Advisory opinions.~~ Request for advice.**

39 (a) At the request of any person affected by this Chapter, the Commission shall
40 render advice, including formal and informal advisory opinions-opinions, on specific
41 questions involving the meaning and application of this Chapter and that person's
42 compliance therewith. The request shall be in writing and Requests for advice and
43 advice rendered in response to those requests shall relate to real or reasonably
44 anticipated fact settings or circumstances.

1 (a1) A request for a formal opinion under subsection (a) of this section shall be in
2 writing, electronic or otherwise. The Commission shall issue formal advisory opinions
3 having prospective application only. Good faith reliance upon a requested ~~written~~
4 formal advisory opinion on a specific matter shall immunize the designated individual,
5 lobbyist, lobbyist's principal, or other person requesting that written advisory opinion
6 from all of the following:

- 7 (1) Investigation by the Commission.
- 8 (2) Any adverse action by the employing entity.
- 9 (3) Investigation by the Secretary of State.

10 (b) Staff to the Commission may issue advice, including informal but not formal
11 advisory opinions ~~opinions~~, under procedures adopted by the Commission.

12 (c) The Commission shall publish its formal advisory opinions ~~at least once a~~
13 year, within 30 days of issuance, edited as necessary to protect the identities of the
14 individuals requesting opinions.

15 (d) Except as provided under subsection (c) of this section, ~~requests for all~~
16 records and information relating to advice, including formal and informal advisory
17 opinions and advisory opinions issued ~~given~~ pursuant to this section are confidential and
18 not ~~matters of public record~~ public records. The person, State agency or governmental
19 unit requesting and receiving advice under this section may authorize release of the
20 advisory opinion, or any other confidential record or information, to any other person,
21 State agency or governmental unit. No present or former Commission member or
22 employee may disclose confidential records under this section unless specifically
23 authorized by this section. Violation of this prohibition shall be grounds for disciplinary
24 action, including termination of employment. For purposes of this subsection,
25 "confidential records" shall include any records or information relating to a request for
26 advice under this section, including the request for advice, the response to the request
27 for advice, and supporting information, notes, and research related to the request. For
28 purposes of this subsection, "information" shall include the fact of the request or
29 response, the identity of the individual making the request or on whose behalf the
30 request was made, or the response to the request.

31 (d1) Staff to the Commission may share all information related to requests made
32 under subsection (a) and (a1) of this section with staff of the Office of the Secretary of
33 State, and staff of the Office of the Secretary of State shall treat that information as
34 confidential and not a public record. The Commission shall forward an unedited copy of
35 each formal advisory opinion under this section to the Secretary of State at the time the
36 formal advisory opinion is issued to the requestor, and the Secretary of State shall treat
37 that unedited advisory opinion as confidential and not a public record.

38 (e) Requests for advisory opinions may be withdrawn by the requestor at any
39 time prior to the issuance of ~~an a~~ formal advisory opinion."

40 **SECTION 2.(d)** This section is effective on or after January 1, 2007.

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

- 42 "b. The hearing shall be ~~legislator~~ open to the public, except for
43 matters that could otherwise be considered in closed session
44 under G.S. 143-318.11, matters involving minors, or matters

1 involving a personnel record. In any event, the deliberations by
2 the Commission on a complaint may be held in closed session."

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

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

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

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

- 10 a. Influencing or attempting to influence legislative or executive
11 action, or both, through direct communication or activities with
12 a designated individual or that ~~person's~~designated individual's
13 immediate family.
14 b. Developing goodwill through communications or activities,
15 including the building of relationships, with a designated
16 individual or that ~~person's~~designated individual's immediate
17 family with the intention of influencing current or future
18 legislative or executive action, or both.

19 The term "lobbying" does not include communications or activities as
20 part of a business, civic, religious, fraternal, personal, or commercial
21 relationship which is not connected to legislative or executive action,
22 or both."

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

24 "b. Represents another ~~person,~~person or governmental unit, but is
25 not directly employed by that ~~person,~~person or governmental
26 unit, and receives ~~compensation~~payment for services for the
27 purpose of lobbying. For the purposes of this sub-subdivision,
28 the term ~~compensation~~'payment for services' shall not include
29 reimbursement of actual travel and subsistence."

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

31 "(11) Lobbyist principal and principal. – The person or governmental unit on
32 whose behalf the lobbyist lobbies. In the case where a lobbyist is
33 compensated by a law firm, consulting firm, or other entity retained by
34 a person or governmental unit for lobbying, the principal is the person
35 or governmental unit whose interests the lobbyist represents in
36 lobbying. In the case of a lobbyist employed or retained by an
37 association or other organization, the lobbyist's principal is the
38 association or other organization, not the individual members of the
39 association or other organization.

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

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

43 read:

1 "(11k) Payment for services. – Any money, thing of value, or economic
2 benefit paid to a lobbyist in return for lobbying."

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

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

9 (1) Publish the proposed rules in the North Carolina Register.

10 (2) Submit the rule and a notice of public hearing to the Codifier of Rules,
11 and the Codifier of Rules shall publish the proposed rule and the notice
12 of public hearing on the Internet to be posted within five business
13 days.

14 (3) Notify ~~persons~~ those on the mailing list maintained in accordance with
15 G.S. 150B-21.2(d) and any other interested parties of its intent to adopt
16 a rule and of the public hearing.

17 (4) Accept written comments on the proposed rule for at least 15 business
18 days prior to adoption of the rule.

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

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

24 (d) For purposes of G.S. 150B-21.3(b2), a written objection filed by the
25 Commission to a rule adopted by the Secretary of State pursuant to this Chapter shall be
26 deemed written objections from 10 or more ~~persons~~ persons under that statute.
27 Notwithstanding G.S. 150B-21.3(b2), a rule adopted by the Secretary of State pursuant
28 to this Chapter objected to by the Commission under this subsection shall not become
29 effective until an act of the General Assembly approving the rule has become law. If the
30 General Assembly does not approve a rule under this subsection by the day of
31 adjournment of the next regular session of the General Assembly that begins at least 25
32 days after the date the Rules Review Commission approves the rule, the permanent rule
33 shall not become effective and any temporary rule associated with the permanent rule
34 expires. If the General Assembly fails to approve a rule by the day of adjournment, the
35 Secretary of State may initiate rulemaking for a new permanent rule, including by the
36 adoption of a temporary rule."

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

38 "(a) At the request of any ~~person~~ person or governmental unit affected by this
39 Chapter, the Commission shall render advisory opinions on specific questions involving
40 the meaning and application of this Chapter and that ~~person's~~ person's or governmental
41 unit's compliance therewith. The request shall be in writing and relate to real or
42 reasonably anticipated fact settings or circumstances. The Commission shall issue
43 advisory opinions having prospective application only. Good faith reliance upon a
44 requested written advisory opinion on a specific matter shall immunize the designated

1 individual, lobbyist, lobbyist's principal, or other ~~person~~ person or governmental unit
2 requesting that written advisory opinion from all of the following:

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

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

7 "(a) The Commission shall develop and implement a lobbying education and
8 awareness program designed to instill in all designated individuals, lobbyists, and
9 lobbyists' principals a keen and continuing awareness of their obligations and sensitivity
10 to situations that might result in real or potential violation of this Chapter or other
11 related laws. The Commission shall make basic lobbying education and awareness
12 presentations to all designated individuals upon their election, appointment, or hiring
13 and shall offer periodic refresher presentations as the Commission deems appropriate.
14 Every designated individual shall participate in a lobbying presentation approved by the
15 Commission within six months of the ~~person's~~ designated individual's election,
16 appointment, or hiring and shall attend refresher lobbying education presentations at
17 least every two years thereafter in a manner the Commission deems appropriate. The
18 Commission shall also make lobbying education and awareness programs available to
19 lobbyists and lobbyists' principals. Upon request, the Commission shall assist each
20 agency in developing in-house education programs and procedures necessary or
21 desirable to meet the agency's particular needs for lobbying education."

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

23 "**§ 120C-104. Chapter applies to candidates for certain offices.**

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

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

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

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

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

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

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

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

1 **"§ 120C-300. Contingency fees prohibited.**

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

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

11 (c) Any ~~compensation~~paidpayment for services to a lobbyist in violation of this
12 section is subject to forfeiture and shall be paid into the Civil Penalty and Forfeiture
13 Fund."

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

15 "(2) Knowingly give a gift to ~~a third party~~ with the intent that a designated
16 individual be the ultimate recipient."

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

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

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

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

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

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

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

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

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

43 **"§ 120C-305. Prohibition on the use of cash or credit of the lobbyist.**

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

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

6 "**§ 120C-400. Reporting of reportable expenditures.**

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

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

12 (1a) Reportable expenditures benefiting or made on behalf of a designated
13 individual's immediate family member in the regular course of that
14 immediate family member's employment.

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

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

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

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

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

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

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

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

30 (4) ~~name~~The name and address of the payee, or beneficiary,
31 ~~and~~beneficiary.

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

35 (b1) For purposes of subdivision (b)(5) of this section, Whenwhen more than 15
36 designated individuals benefit from or request a reportable expenditure, no names of
37 individuals need be reported provided that the report identifies the approximate number
38 of designated individuals benefiting or requesting and the basis for their selection,
39 including the name of the legislative body, committee, caucus, or other group whose
40 membership list is a matter of public record in accordance with G.S. 132-1 or including
41 a description of the group that clearly distinguishes its purpose or composition from the
42 general membership of the General Assembly. The approximate number of immediate
43 family members of designated individuals who benefited from the reportable
44 expenditure shall be listed separately."

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

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

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

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

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

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

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

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) is repealed.

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

35 "a. Constitutional officers of the State and ~~persons~~individuals
36 elected or appointed as constitutional officers of the State prior
37 to taking office."

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

39 "d. The chief deputy and chief administrative assistant of each
40 ~~person~~individual designated under sub-subdivision a. or c. of
41 this subdivision."

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

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

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

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

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

9 "(30k) State agency. – An agency in the executive branch of the government
10 of this State, including the Governor's Office, a board, a department, a
11 division, and any other unit of government in the executive branch."

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

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

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

17 "**§ 138A-11. Identify and publish names of covered persons and legislative**
18 **employees.**

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

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

25 "**§ 138A-12. Inquiries by the Commission.**

26 ...

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

32 (1) The application or alleged violation of this Chapter.

33 (2) For legislators, the application of alleged violations of Part 1 of Article
34 14 of Chapter 120 of the General Statutes.

35 (3) An alleged violation of the criminal law by a covered person in the
36 performance of that individual's official duties.

37 (4) An alleged violation of G.S. 126-14.

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

40 (c) Complaint. –

41 (1) A sworn complaint filed under this Chapter shall state the name,
42 address, and telephone number of the ~~person~~individual filing the
43 complaint, the name and job title or appointive position of the covered
44 person or legislative employee against whom the complaint is filed,

1 and a concise statement of the nature of the complaint and specific
 2 facts indicating that a violation of this Chapter or Chapter 120 of the
 3 General Statutes has occurred, the date the alleged violation occurred,
 4 and either (i) that the contents of the complaint are within the
 5 knowledge of the individual verifying the complaint, or (ii) the basis
 6 upon which the individual verifying the complaint believes the
 7 allegations to be true.

8 (2) Except as provided in subsection (d) of this section, a complaint filed
 9 under this Chapter must be filed within two years of the date the
 10 complainant knew or should have known of the conduct upon which
 11 the complaint is based.

12 (3) The Commission may decline to accept, refer, or conduct an inquiry
 13 into any complaint that does not meet all of the requirements set forth
 14 in subdivision (1) of this subsection, or the Commission may, in its
 15 sole discretion, request additional information to be provided by the
 16 complainant within a specified period of time of no less than seven
 17 business days.

18 (4) In addition to subdivision (3) of this subsection, the Commission may
 19 decline to accept, refer, or conduct an inquiry into a complaint if it
 20 determines that any of the following apply:

- 21 a. The complaint is frivolous or brought in bad faith.
- 22 b. The ~~individuals~~covered person or legislative employee and
 23 conduct complained of have already been the subject of a prior
 24 complaint.
- 25 c. The conduct complained of is primarily a matter more
 26 appropriately and adequately addressed and handled by other
 27 federal, State, or local agencies or authorities, including law
 28 enforcement authorities. If other agencies or authorities are
 29 conducting an investigation of the same actions or conduct
 30 involved in a complaint filed under this section, the
 31 Commission may stay its complaint inquiry pending final
 32 resolution of the other investigation.

33 (5) The Commission shall send a copy of the complaint to the covered
 34 person or legislative employee who is the subject of the complaint and
 35 the employing entity, within 30 days of the filing.

36 ...

37 (f) Dismissal of Complaint After Preliminary Inquiry. – If the Commission
 38 determines at the end of its preliminary inquiry that (i) the individual who is the subject
 39 of the complaint is not a covered person or legislative employee subject to the
 40 Commission's jurisdiction and authority under this Chapter, or (ii) the complaint does
 41 not allege facts sufficient to constitute a violation within the jurisdiction of the
 42 Commission under subsection (b) ~~if of~~this section, the Commission shall dismiss the
 43 complaint.

44 ...

1 (l) Notice of Dismissal. – Upon the dismissal of a complaint under this section,
2 the Commission shall provide written notice of the dismissal to the individual who filed
3 the complaint and the covered person or legislative employee against whom the
4 complaint was filed. The Commission shall forward copies of complaints and notices of
5 dismissal of complaints against legislators to the Committee, against legislative
6 employees to the employing entity for legislative employees, and against judicial
7 officers to the Judicial Standards Commission for complaints against justices and
8 judges, and the senior resident superior court judge of the district or county for
9 complaints against district attorneys, or the chief district court judge of the district or
10 county for complaints against clerks of court.

11 ...

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

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

26"

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

28 "(b) The Commission shall make basic ethics education and awareness
29 presentations to all public servants and their immediate staffs, upon their election,
30 appointment, or employment, and shall offer periodic refresher presentations as the
31 Commission deems appropriate. Every public servant and the immediate staff of every
32 public servant shall participate in an ethics presentation approved by the Commission
33 within six months of the ~~person's~~ public servant's election, reelection, appointment, or
34 employment, and shall attend refresher ethics education presentations at least every two
35 years thereafter in a manner as the Commission deems appropriate."

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

37 "(c) The Commission, jointly with the Committee, shall make basic ethics
38 education and awareness presentations to all legislators and legislative employees upon
39 their election, reelection, appointment, or employment and shall offer periodic refresher
40 presentations as the Commission and the Committee deem appropriate. Every legislator
41 and legislative employee shall participate in an ethics presentation approved by the
42 Commission and Committee within three months of the ~~person's~~ legislator or legislative
43 employee's election, reelection, appointment, or employment, and every legislative

1 employee shall attend refresher ethics education presentations at least every two years
2 thereafter, in a manner as the Commission and Committee deem appropriate."

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

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

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

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

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

22 "**§ 138A-21. Purpose.**

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

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

40 "**§ 138A-22. Statement of economic interest; filing required.**

41 (a) Every covered person subject to this Chapter who is elected, appointed, or
42 employed, including one appointed to fill a vacancy in elective office, except for public
43 servants included under G.S. 138A-3(30)b., e., f., or g. whose annual compensation
44 from the State is less than sixty thousand dollars (\$60,000), shall file a statement of

1 economic interest with the Commission prior to the covered person's initial
2 appointment, election, or employment and no later than April 15 of every year
3 thereafter, except as otherwise filed under subsections (c1) and (d) of this section. A
4 prospective covered person required to file a statement under this Chapter shall not be
5 appointed, employed, or receive a certificate of election, prior to submission by the
6 Commission of the Commission's evaluation of the statement in accordance with this
7 Article. The requirement for an annual filing under this subsection also shall apply to
8 covered persons whose terms have expired but who continue to serve until the covered
9 person's replacement is appointed. Once a statement of economic interest is properly
10 completed and filed under this Article, the statement of economic interest does not need
11 to be supplemented or refiled prior to the next due date set forth in this subsection.

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

17 ...

18 (d) A candidate for an office subject to this Article shall file the statement of
19 economic interest at the same place and in the same manner as the notice of candidacy
20 for that office is required to be filed under G.S. 163-106 or G.S. 163-323 within 10 days
21 of the filing deadline for the office the candidate seeks. ~~A person~~An individual who is
22 nominated under G.S. 163-114 after the primary and before the general election, and a
23 ~~person~~an individual who qualifies under G.S. 163-122 as an unaffiliated candidate in a
24 general election, shall file a statement of economic interest with the county board of
25 elections of each county in the senatorial or representative district. ~~A person~~An
26 individual nominated under G.S. 163-114 shall file the statement within three days
27 following the ~~person's~~individual's nomination, or not later than the day preceding the
28 general election, whichever occurs first. ~~A person~~An individual seeking to qualify as an
29 unaffiliated candidate under G.S. 163-122 shall file the statement of economic interest
30 with the petition filed under that section. ~~A person~~An individual seeking to have
31 write-in votes counted for ~~the person~~that individual in a general election shall file a
32 statement of economic interest at the same time the candidate files a declaration of
33 intent under G.S. 163-123. A candidate of a new party chosen by convention shall file a
34 statement of economic interest at the same time that the president of the convention
35 certifies the names of its candidates to the State Board of Elections under G.S. 163-98.

36"

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

38 "(b) The statements of economic interest filed by prospective public servants, and
39 the written evaluations by the Commission of those statements, for ~~persons~~individuals
40 elected by the General Assembly shall be provided to the chair of the standing
41 committee handling the legislation regarding the election and made available to all
42 members of the General Assembly. The statements of economic interest filed by public
43 servants elected to positions by the General Assembly, and written evaluations by the

1 Commission of those statements, are not public records until the prospective public
2 servant is sworn into office."

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

4 "(c) The statements of economic interest filed by prospective public servants, and
5 the written evaluations by the Commission of those statements, for ~~persons~~individuals
6 confirmed for appointment as a public servant by the General Assembly shall be
7 provided to the chair of the standing committee handling the legislation regarding the
8 appointment. The statements of economic interest filed by prospective public servants
9 for confirmation for appointment by the General Assembly, and written evaluations by
10 the Commission of those statements, are public records at the time of the announcement
11 of the appointment."

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

13 "(1) Except as otherwise provided in this subdivision, the name, current
14 mailing address, occupation, employer, and business of the filing
15 person. Any ~~person~~individual holding or seeking elected office for
16 which residence is a qualification for office shall include a home
17 address. A judicial officer may use a current mailing address instead of
18 the home address on the form required in this subsection. The judicial
19 officer may also use the initials instead of the name of any
20 unemancipated child of the judicial officer who also resides in the
21 household of the judicial officer. If the judicial officer provides the
22 initials of an unemancipated child, the judicial officer shall
23 concurrently provide the name of the unemancipated child to the
24 Commission. The name of an unemancipated child provided by the
25 judicial officer to the Commission shall not be a public record under
26 Chapter 132 of the General Statutes and is privileged and
27 confidential."

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

29 "h. A list of all nonpublicly owned businesses of which the filing
30 person and the filing person's immediate family is an officer,
31 employee, director, partner, owner, or member or manager of a
32 limited liability company."

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

34 "(6) An indication of whether the filing person, the filing person's
35 employer, a member of the filing person's immediate family, or the
36 immediate family member's employer is licensed or regulated by, or
37 has a business relationship with, the board or employing entity with
38 which the filing person is or will be associated. This subdivision does
39 not apply to a ~~legislator or a judicial officer~~legislator, a judicial
40 officer, or that legislator's or judicial officer's immediate family."

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

42 "(7) A list of societies, organizations, or advocacy groups, pertaining to
43 subject matter areas over which the public servant's agency or board
44 may have jurisdiction, in which the public servant or a member of the

1 public servant's immediate family is a director, officer, or governing
2 board member. This subdivision does not apply to a legislator, a
3 judicial officer, or that ~~person's legislator's or judicial officer's~~
4 immediate family."

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

6 "(8) A list of all things with a total value of over two hundred dollars
7 (\$200.00) per calendar quarter given and received without valuable
8 consideration and under circumstances that a reasonable person would
9 conclude that the thing was given for the purpose of lobbying, if such
10 things were given by a person not required to report under Chapter
11 120C of the General Statutes, excluding things given by a member of
12 the filing person's extended family. The list shall include only those
13 things received during the 12 months preceding the reporting period
14 under subsection (d) of this section, and shall include the source of
15 those things. The list required by this subdivision shall not apply to
16 things of monetary value received by the filing person prior to the time
17 the filing person filed or was nominated as a candidate for office, as
18 described in G.S. 138A-22, or was appointed or employed as a covered
19 person."

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

21 "(10) Any other ~~economic or financial~~ information that the filing person
22 believes may assist the Commission in advising the filing person with
23 regards to compliance with this Chapter. is necessary either to carry
24 out the purposes of this Chapter or to fully disclose any conflict of
25 interest or potential conflict of interest. If the filing person believes a
26 potential for conflict exists, the filing person has a duty to inquire of
27 the Commission as to that potential conflict. If a filing person is
28 uncertain of whether particular information is necessary, then the filing
29 person shall consult the Commission for guidance."

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

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

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

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

43 "(e) The Commission shall prepare a written evaluation of each statement of
44 economic interest relative to conflicts of interest and potential conflicts of interest. This

1 subsection does not apply to statements of economic interest of legislators and judicial
2 officers. The Commission shall submit the evaluation to all of the following:

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

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

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

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

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

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

29 "(c) No public servant, legislator, or legislative employee shall knowingly accept
30 a gift from a lobbyist or lobbyist principal registered under Chapter 120C of the General
31 Statutes. No legislator or legislative employee shall knowingly accept a gift from liaison
32 personnel designated under Chapter 120C of the General Statutes. No public servant,
33 legislator, or legislative employee shall accept a gift ~~from a third party~~ knowing all of
34 the following:

- 35 (1) ~~The third party obtained the gift~~ was obtained indirectly from a
36 lobbyist or lobbyist principal, lobbyist, lobbyist's principal, or liaison
37 personnel registered under Chapter 120C of the General Statutes.
- 38 (2) The lobbyist or lobbyist principal registered under Chapter 120C of the
39 General Statutes intended for the ultimate recipient of the gift to be a
40 public servant, legislator, or legislative employee as provided in
41 G.S. 120C-303."

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

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

- 1 (1) The ~~third party obtained the gift~~ was obtained indirectly from a person
2 described under subdivisions (d)(1), (2), and (3) of this section.
- 3 (2) The person described under subdivisions (d)(1), (2), and (3) of this
4 section intended for the ultimate recipient of the gift to benefit the
5 public servant."

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

7 "(1) Food and beverages for immediate consumption in connection with
8 public events, any of the following:

9 a. An open meeting of a public body, provided that the open
10 meeting is properly noticed under Article 33C of Chapter 143.

11 b. A gathering of a person or governmental unit open to the
12 general public, provided that a sign or other communication
13 containing a message that is reasonably designed to convey to
14 the general public that the gathering is open to the general
15 public is displayed at the gathering.

16 c. A gathering of a person or governmental unit to which the
17 entire board of which a public servant is a member, at least 10
18 public servants, all the members of the House of
19 Representatives, all the members of the Senate, all the members
20 of a county or municipal legislative delegation, all the members
21 of a recognized legislative caucus with regular meetings other
22 than meetings with one or more lobbyists, all the members of a
23 committee, a standing subcommittee, a joint committee or joint
24 commission of the House of Representatives, the Senate, or the
25 General Assembly, or all legislative employees are invited, and
26 one of the following apply:

27 1. At least 10 individuals associated with the person or
28 governmental unit actually attend, other than the covered
29 person or legislative employee, or the immediate family
30 of the covered person or legislative employee.

31 2. All shareholders, employees, board members, officers,
32 members, or subscribers of the person or governmental
33 unit located in North Carolina are notified and invited to
34 attend.

35 For purposes of this sub-subdivision only, the term "invited"
36 shall mean written notice from at least one sponsor of the
37 gathering containing the date, time, and location of the
38 gathering given at least 24 hours in advance of the gathering to
39 the specific qualifying group listed in this sub-subdivision. If it
40 is known at the time of the written notice that at least one
41 sponsor is a lobbyist or lobbyist principal, the written notice
42 shall also state whether or not the gathering is permitted under
43 this section."

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

1 "(3) Reasonable actual expenditures of the legislator, public servant, or
2 legislative employee for food, beverages, registration, travel, lodging,
3 other incidental items of nominal value, and entertainment, in
4 connection with (i) a legislator's, public servant's, or legislative
5 employee's attendance at an educational meeting for purposes
6 primarily related to the public duties and responsibilities of the
7 legislator, public servant, or legislative employee; (ii) a legislator's,
8 public servant's, or legislative employee's participation as a speaker or
9 member of a panel at a meeting; (iii) a legislator's or legislative
10 employee's attendance and participation in meetings of a nonpartisan
11 state, regional, national, or international legislative organization of
12 which the General Assembly is a member or that the legislator or
13 legislative employee is a member or participant of by virtue of that
14 ~~person's~~ legislator's or legislative employee's public position, or as a
15 member of a board, agency, or committee of such organization; or (iv)
16 a public servant's attendance and participation in meetings as a
17 member of a board, agency, or committee of a nonpartisan state,
18 regional, national, or international organization of which the public
19 servant's agency is a member or the public servant is a member by
20 virtue of that ~~person's~~ public servant's public position, provided the
21 following conditions are met:

- 22 a. The reasonable actual expenditures shall be made by a
23 lobbyist's principal, and not a lobbyist.
24 b. Any meeting must be attended by at least 10 or more
25 participants, have a formal agenda, and notice of the meeting
26 has been given at least 10 days in advance.
27 c. Any food, beverages, transportation, or entertainment must be
28 provided to all attendees or defined groups of 10 or more
29 attendees as part of the meeting or in conjunction with the
30 meeting.
31 d. Any entertainment must be incidental to the principal agenda of
32 the meeting.
33 e. If the legislator, public servant, or legislative employee is
34 participating as a speaker or member of a panel, then that
35 legislator, public servant, or legislative employee must be a
36 bona fide speaker or participant."

37 **SECTION 81.5.** G.S. 138A-32(e)(5) reads as rewritten:

38 "(5) Gifts accepted on behalf of the State for use by the State or for the
39 benefit of the State."

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

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

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

1 "(12) Food and beverages for immediate consumption at an organized
2 gathering of a person or governmental unit to which a public servant is
3 invited to attend for purposes primarily related to the public servant's
4 public service or position, and to which at least 10 individuals, other
5 than the public servant, or the public servant's immediate family,
6 actually attend, or to which all shareholders, employees, board
7 members, officers, members, or subscribers of the person or
8 governmental unit who are located in a specific North Carolina office
9 or county are notified and invited to attend."

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

11 "**§ 138A-34. Use of information for private gain.**

12 A public servant or legislative employee shall not use or disclose nonpublic
13 information gained in the course of, or by reason of, the public servant's or legislative
14 employee's official responsibilities in a way that would affect a personal financial
15 interest of the public servant or legislative employee, a member of the public servant's
16 or legislative employee's extended family, or a person or governmental unit with whom
17 or business with which the public servant or legislative employee is associated. A public
18 servant or legislative employee shall not improperly use or improperly disclose any
19 confidential information."

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

21 "**§ 138A-36. Public servant participation in official actions.**

22 (a) Except as permitted by subsection (d) of this section and under G.S. 138A-38,
23 no public servant acting in that capacity, authorized to perform an official action
24 requiring the exercise of discretion, shall ~~knowingly~~ participate in an official action by
25 the employing entity if the public servant, ~~a member of the public servant's extended~~
26 ~~family, a business with which the public servant is associated, or a nonprofit corporation~~
27 ~~or organization with which the public servant is associated, has an economic interest in,~~
28 ~~or~~ servant knows the public servant or a person with which the public servant is
29 associated may incur a reasonably foreseeable financial benefit from, from the matter
30 under consideration, which would impair the public servant's independence of judgment
31 or from which it could reasonably be inferred that the ~~interest or financial~~ benefit would
32 influence the public servant's participation in the official action. ~~A potential benefit~~
33 ~~includes an economic or financial detriment to a business competitor of (i) the public~~
34 ~~servant, (ii) a member of the public servant's extended family, (iii) a business with~~
35 ~~which the public servant is associated, or (iv) a nonprofit corporation or organization~~
36 ~~with which the public servant is associated. A benefit also includes an economic or~~
37 ~~financial detriment to (i) the public servant, (ii) a member of the public servant's~~
38 ~~extended family, (iii) a business with which the public servant is associated, or (iv) a~~
39 ~~nonprofit corporation or organization with which the public servant is associated.~~

40 ...

41 (d) If a public servant is uncertain whether the relationship described in
42 subsection (c) of this section justifies removing the public servant from the proceeding
43 under subsection (c) of this section, the public servant shall disclose the relationship to
44 the ~~person~~ individual presiding over the proceeding and seek appropriate guidance. The

1 presiding officer, in consultation with legal counsel if necessary, shall then determine
 2 the extent to which the public servant will be permitted to participate. If the affected
 3 public servant is the ~~person~~ individual presiding, then the vice-chair or any other
 4 substitute presiding officer shall make the determination. A good-faith determination
 5 under this subsection of the allowable degree of participation by a public servant is
 6 presumptively valid and only subject to review under G.S. 138A-12 upon a clear and
 7 convincing showing of mistake, fraud, abuse of discretion, or willful disregard of this
 8 Chapter.

9"

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

11 "**§ 138A-37. Legislator participation in official actions.**

12 (a) Except as permitted under G.S. 138A-38, no legislator shall knowingly
 13 participate in a legislative action if the ~~legislator, a member of the legislator's extended~~
 14 ~~family, the legislator's client, a business with which the legislator is associated, or a~~
 15 ~~nonprofit corporation or organization with which the legislator is associated, has an~~
 16 ~~economic interest in, or~~ legislator knows the legislator or a person with which the
 17 legislator is associated may incur a reasonably and foreseeably foreseeable financial
 18 benefit from the action, and if after considering whether the legislator's judgment would
 19 be substantially influenced by the ~~interest~~ financial benefit and considering the need for
 20 the legislator's particular contribution, including special knowledge of the subject matter
 21 to the effective functioning of the legislature, the legislator concludes that an actual
 22 ~~economic interest~~ financial benefit does exist which would impair the legislator's
 23 independence of judgment. ~~A potential benefit includes an economic or financial~~
 24 ~~detriment to a business competitor of (i) the legislator, (ii) a member of the legislator's~~
 25 ~~extended family, (iii) a business with which the legislator is associated, or (iv) a~~
 26 ~~nonprofit corporation or organization with which the legislator is associated. A benefit~~
 27 ~~also includes an economic or financial detriment to (i) the legislator, (ii) a member of~~
 28 ~~the legislator's extended family, (iii) a business with which the legislator is associated,~~
 29 ~~or (iv) a nonprofit corporation or organization with which the legislator is associated.~~

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

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

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

38 "**§ 138A-3. Definitions.**

39 The following definitions apply in this Chapter:

40 ...

41 (11) ~~Economic interest. — Matters involving a business with which~~
 42 ~~associated or a nonprofit corporation or organization with which~~
 43 ~~associated.~~

44 ...

1 nonprofit corporation established under G.S. 115D-20(9) to support the community
2 college shall not constitute a conflict of interest under G.S. 138A-36, provided that the
3 majority of the nonprofit corporation's board of directors is not comprised of the
4 president, chief financial officer, and chief administrative officer, or voting members of
5 the board of trustees of the community college which the nonprofit corporation was
6 created to support."

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

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

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

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

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

16 "(a) The Bureau shall, through its Director and upon request of the Governor,
17 investigate and prepare evidence in the event of any lynching or mob violence in the
18 State; shall investigate all cases arising from frauds in connection with elections when
19 requested to do so by the Board of Elections, and when so directed by the Governor.
20 Such investigation, however, shall in nowise interfere with the power of the Attorney
21 General to make such investigation as ~~he~~ the Attorney General is authorized to make
22 under the laws of the State. The Bureau is authorized further, at the request of the
23 Governor, to investigate cases of frauds arising under the Social Security Laws of the
24 State, of violations of the gaming laws, and lottery laws, and matters of similar kind
25 when called upon by the Governor so to do. In all such cases it shall be the duty of the
26 Department to keep such records as may be necessary and to prepare evidence in the
27 cases investigated, for the use of enforcement officers and for the trial of causes. The
28 services of the Director of the Bureau, and of ~~his~~ the Director's assistants, may be
29 required by the Governor in connection with the investigation of any crime committed
30 anywhere in the State when called upon by the enforcement officers of the State, and
31 when, in the judgment of the Governor, such services may be rendered with advantage
32 to the enforcement of the criminal law. The State Bureau of Investigation is hereby
33 authorized to investigate without request the attempted arson of, or arson of, damage of,
34 theft from, or theft of, or misuse of, any State-owned personal property, buildings, or
35 other real property or any assault upon or threats against any legislative officer named in
36 G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court
37 officer as defined in G.S. 14-16.10(1). The Bureau also is authorized at the request of
38 the Governor to conduct a background investigation on a person that the Governor plans
39 to nominate for a position that must be confirmed by the General Assembly, the Senate,
40 or the House of Representatives. The background investigation of the proposed nominee
41 shall be limited to an investigation of the person's criminal record, educational
42 background, employment record, records concerning the listing and payment of taxes,
43 and credit record, and to a requirement that the person provide the information
44 contained in the statements of economic interest required to be filed by persons subject

1 to ~~Executive Order Number 1, filed on January 31, 1985, as contained on pages 1405~~
2 ~~through 1419 of the 1985 Session Laws (First Session, 1985). Chapter 138A of the~~
3 ~~General Statutes.~~ The Governor must give the person being investigated written notice
4 that ~~he~~ the Governor intends to request a background investigation at least 10 days prior
5 to the date that ~~he~~ the Governor requests the State Bureau of Investigation to conduct
6 the background investigation. The written notice shall be sent by regular mail, and there
7 is created a rebuttable presumption that the person received the notice if the Governor
8 has a copy of the notice."

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

10 "**§ 120-19.4A. Requests to State Bureau of Investigation for background**
11 **investigation of a person who must be confirmed by legislative action.**

12 The President of the Senate or the Speaker of the House may request that the State
13 Bureau of Investigation perform a background investigation on a person who must be
14 appointed or confirmed by the General Assembly, the Senate, or the House of
15 Representatives. The person being investigated shall be given written notice by regular
16 mail at least 10 days prior to the date that the State Bureau of Investigation is requested
17 to perform the background investigation by the presiding officer of the body from which
18 the request originated. There is a rebuttable presumption that the person being
19 investigated received the notice if the presiding officer has a copy of the notice. The
20 State Bureau of Investigation shall perform the requested background investigation and
21 shall provide the information, including criminal records, to the presiding officer of the
22 body from which the request originated. A copy of the information also shall be
23 provided to the person being investigated. The term "background investigation" shall be
24 limited to an investigation of a person's criminal record, educational background,
25 employment record, records concerning the listing and payment of taxes, and credit
26 record, and to a requirement that the person provide the information contained in the
27 statements of economic interest required to be filed by persons subject to ~~Executive~~
28 ~~Order Number 1, filed on January 31, 1985, as contained on pages 1405 through 1419~~
29 ~~of the 1985 Session Laws (First Session, 1985). Chapter 138A of the General Statutes."~~

30 **SECTION 90.** The Revisor of Statutes shall change the term "Lobbyist's
31 Principal" to "Lobbyist Principal" wherever it appears in Chapter 138A and Chapter
32 120C of the General Statutes. The Revisor of Statutes shall change the term "Lobbyist's
33 Principals" to "Lobbyist Principals" wherever it appears in Chapter 138A and Chapter
34 120C of the General Statutes. The Revisor of Statutes shall change the term "Lobbyist's
35 Principal's" to "Lobbyist Principal's" wherever it appears in Chapter 138A and Chapter
36 120C of the General Statutes.

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

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

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