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HOUSE BILL 1843
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Short Title: Revise Legislative Ethics Act - 1.

(Public)

Sponsors:

Referred to:

May 10, 2006

A BILL TO BE ENTITLED

AN ACT TO REVISE THE LEGISLATIVE ETHICS ACT AS RECOMMENDED BY
THE HOUSE SELECT COMMITTEE ON ETHICS AND GOVERNMENTAL
REFORM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 14 of Chapter 120 of the General Statutes is repealed.

SECTION 2. Chapter 120 of the General Statutes is amended by adding a
new article to read:

"Article 32.

"Legislative Ethics Act.

"Part 1. General Provisions.

"§ 120-280. Title.

This Article shall be known and may be cited as the 'Legislative Ethics Act.'

"§ 120-281. Definitions.

The following definitions apply in this Article:

(1) Business. – Any of the following, whether or not for profit:

a. Association.

b. Corporation.

c. Enterprise.

d. Joint venture.

e. Organization.

f. Partnership.

g. Proprietorship.

h. Vested trust.

i. Every other business interest, including ownership or use of
land for income.

(2) Business associate. – A partner, or member or manager of a limited
liability company.

- 1 (3) Business with which associated. – A business in which the legislator or
2 any member of the legislator's immediate family has a pecuniary
3 interest. For purposes of this subdivision, the term 'business' shall not
4 include a widely held investment fund, including a mutual fund,
5 regulated investment company, or pension or deferred compensation
6 plan, if all of the following apply:
7 a. The legislator or a member of the legislator's immediate family
8 neither exercises nor has the ability to exercise control over the
9 financial interests held by the fund.
10 b. The fund is publicly traded or the fund's assets are widely
11 diversified.
12 (4) Committee. – The Legislative Ethics Committee.
13 (5) Compensation. – Any money, thing of value, or economic benefit
14 conferred on or received by any person in return for services rendered
15 or to be rendered by that person or another. This term does not include
16 campaign contributions properly received and, if applicable, reported
17 as required by Article 22A of Article 163 of the General Statutes.
18 (6) Confidential information. – Information defined as confidential by
19 statute.
20 (7) Contract. – Any agreement including sales and conveyances of real
21 and personal property and agreements for the performance of services.
22 (8) Economic interest. – Matters involving a business with which the
23 person is associated or a nonprofit corporation or organization with
24 which the person is associated.
25 (9) Extended family. – Spouse, descendant, ascendant, or sibling of the
26 legislator or, descendant, ascendant, or sibling of the spouse of the
27 legislator.
28 (10) Immediate family. – An unemancipated child of the legislator residing
29 in the household, and the legislator's spouse, if not legally separated.
30 (11) Legislative action. – As the term is defined in G.S. 120-47.1.
31 (12) Legislative employee. – As the term is defined in G.S. 120-47.1.
32 (13) Legislator. – A member or presiding officer of the General Assembly,
33 or a person elected or appointed a member or presiding officer of the
34 General Assembly before taking office.
35 (14) Nonprofit corporation or organization with which associated. – Any
36 public or private enterprise, incorporated or otherwise, that is
37 organized or operating in the State primarily for religious, charitable,
38 scientific, literary, public health and safety, or educational purposes
39 and of which the person or any member of the person's immediate
40 family is a director, officer, governing board member, employee or
41 independent contractor as of December 31 of the preceding year.
42 (15) Participate. – To take part in, influence, or attempt to influence,
43 including acting through an agent or proxy.
44 (16) Pecuniary interest. – Any of the following:

- 1 a. Owning, either individually or collectively, a legal, equitable, or
2 beneficial interest of ten thousand dollars (\$10,000) or more or
3 five percent (5%), whichever is less, of any business.
- 4 b. Receiving, either individually or collectively, during the
5 preceding calendar year compensation that is or will be required
6 to be included as taxable income on federal income tax returns
7 of the legislator, the legislator's immediate family, or a business
8 with which associated in an aggregate amount of five thousand
9 dollars (\$5,000) from any business or combination of
10 businesses. A pecuniary interest exists in any client or customer
11 who pays fees or commissions, either individually or
12 collectively, of five thousand dollars (\$5,000) or more in the
13 preceding 12 months to the legislator, the legislator's immediate
14 family, or a business with which associated.
- 15 c. Receiving, either individually or collectively and directly or
16 indirectly, in the preceding 12 months, gifts or honoraria having
17 an unknown value or having an aggregate value of five hundred
18 dollars (\$500.00) or more from any person. A pecuniary interest
19 does not exist under this sub-subdivision by reason of (i) a gift
20 or bequest received as the result of the death of the donor; (ii) a
21 gift from an extended family member; or (iii) acting as a trustee
22 of a trust for the benefit of another.
- 23 d. Holding the position of associate, director, officer, business
24 associate, or proprietor of any business, irrespective of the
25 amount of compensation received.
- 26 (17) Public event. – An organized gathering of individuals open to the
27 general public or to which a legislator or legislative employee is
28 invited along with the entire membership of the House, the Senate, a
29 committee, a subcommittee, a county legislative delegation, a joint
30 committee or a legislative caucus and to which at least ten employees
31 or members of the principal actually attend.
- 32 (18) Vested trust. – A trust, annuity, or other funds held by a trustee or
33 other third party for the benefit of the legislator or a member of the
34 legislator's immediate family. A vested trust shall not include a widely
35 held investment fund, including a mutual fund, regulated investment
36 company, or pension or deferred compensation plan, if:
- 37 a. The legislator or a member of the legislator's immediate family
38 neither exercises nor has the ability to exercise control over the
39 financial interests held by the fund; and
- 40 b. The fund is publicly traded, or the fund's assets are widely
41 diversified.

42 "§ 120-282 through 120-285. [Reserved]

43 "Part 2. Ethical Standards for Legislators.

44 "§ 120-286. Bribery, etc.

1 (a) No person shall offer or give to a legislator or a member of a legislator's
2 immediate household, or to a business with which the legislator is associated, and no
3 legislator shall solicit or receive, anything of monetary value, including a gift, favor or
4 service or a promise of future employment, based on any understanding that the
5 legislator's vote, official actions or judgment would be influenced thereby, or where it
6 could reasonably be inferred that the thing of value would influence the legislator in the
7 discharge of the legislator's duties.

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

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

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

20 (e) A violation of subsection (a), (b), or (c) of this section is a Class F felony. A
21 violation of subsection (d) of this section is not a crime but is punishable under
22 G.S. 120-325.

23 **"§ 120-287. Use of public position for private gain.**

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

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

40 (c) No legislator shall use or permit the use of State funds for any advertisement
41 or public service announcement in a newspaper, on radio, or on television that contains
42 that legislator's name, picture, or voice, except in case of State or national emergency
43 and only if the announcement is reasonably necessary to their official function. This

1 subsection shall not apply to fundraising on behalf of and aired on public radio or public
2 television.

3 **"§ 120-288. Disclosure of confidential information.**

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

7 **"§ 120-289. Personnel-related action unethical.**

8 It shall be unethical for a legislator to take, promise, or threaten any legislative
9 action for the purpose of influencing or in retaliation for any action regarding the hiring,
10 promotion, grievance, or disciplinary action of a State employee subject to Chapter 126
11 of the General Statutes. It shall be unethical for a legislator to take, promise, or threaten
12 any legislative action for the purpose of influencing or in retaliation for any action
13 regarding the hiring, promotion, grievance, or disciplinary action of an employee of any
14 unit of local government.

15 **"§ 120-290. Gifts.**

16 (a) A legislator shall not knowingly, directly or indirectly, ask, accept, demand,
17 exact, solicit, seek, assign, receive, or agree to receive anything of value for the
18 legislator, or for another person, in return for being influenced in the discharge of the
19 legislator's official responsibilities, other than that which is received by the legislator
20 from the State for acting in the legislator's official capacity.

21 (b) No legislator or legislative employee shall knowingly accept anything of
22 monetary value, directly or indirectly, from a legislative lobbyist or principal as defined
23 in G.S. 120-47.1 or an executive lobbyist or principal as defined in G.S. 147-54.31.

24 (c) Subsection (b) of this section shall not apply to any of the following:

- 25 (1) Meals and beverages for immediate consumption in connection with
26 public events.
- 27 (2) Nonmonetary items, other than food or beverages, with a value not to
28 exceed ten dollars (\$10.00) provided by a single donor during a single
29 calendar day.
- 30 (3) Informational materials relevant to the duties of the legislator or
31 legislative employee.
- 32 (4) Reasonable actual expenses for food, registration, travel, and lodging
33 of the legislator or legislative employee for a meeting at which the
34 legislator or legislative employee participates in a panel or speaking
35 engagement at the meeting related to the legislator's or legislative
36 employee's duties and when expenses are incurred on the actual day of
37 participation in the engagement or incurred within a 24-hour time
38 period before or after the engagement.
- 39 (5) Items or services received in connection with a state, regional or
40 national legislative organization of which the General Assembly, the
41 legislator or legislative employee is a member by virtue of the person's
42 legislative position.
- 43 (6) Items and services received relating to an educational conference or
44 meeting.

- 1 (7) A plaque or similar nonmonetary memento recognizing individual
2 services in a field or specialty or to a charitable cause.
- 3 (8) Gifts accepted on behalf of the State.
- 4 (9) Anything generally available or distributed to the general public or all
5 other State employees.
- 6 (10) Anything for which fair market value is paid by the legislator or
7 legislative employee.
- 8 (11) Commercially available loans made on terms not more favorable than
9 generally available to the public in the normal course of business if not
10 made for the purpose of lobbying.
- 11 (12) Contractual arrangements or business relationships or arrangements
12 made in the normal course of business if not made for the purpose of
13 lobbying.
- 14 (13) Academic scholarships made on terms not more favorable than
15 scholarships generally available to the public.
- 16 (14) Political contributions properly received and reported as required
17 under Article 22A of Article 163 of the General Statutes.
- 18 (15) Gifts from the legislator's or the legislative employee's extended
19 family, or a member of the same household of the legislator or the
20 legislative employee, or gifts received in conjunction with a marriage,
21 birth, adoption, or death.

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

26 (e) A legislative employee shall not accept an honorarium from a source other
27 than the General Assembly for conducting any activity where any of the following
28 apply:

- 29 (1) The General Assembly reimburses the public servant for travel,
30 subsistence, and registration expenses.
- 31 (2) The General Assembly's work time or resources are used.
- 32 (3) The activity would be considered official duty or would bear a
33 reasonably close relationship to the legislative employee's official
34 duties.

35 An outside source may reimburse the General Assembly for actual expenses incurred by
36 a legislative employee in conducting an activity within the duties of the legislative
37 employee, or may pay a fee to the General Assembly, in lieu of an honorarium, for the
38 services of the legislative employee.

39 (f) The offering, giving, soliciting or receiving a thing of value in compliance
40 with this section without corrupt intent shall not constitute a violation of G.S. 120-286,
41 G.S. 14-217 or G.S. 14-218.

42 **"§ 120-291. Other rules of conduct.**

43 (a) A legislator shall make a due and diligent effort before taking any action,
44 including voting or participating in discussions with other legislators, to determine

1 whether the legislator has a conflict of interest. If the legislator is unable to determine
2 whether or not a conflict of interest may exist, the legislator has a duty to inquire of the
3 Committee as to that conflict.

4 (b) A legislator shall continually monitor, evaluate, and manage the legislator's
5 personal, financial, and professional affairs to ensure the absence of conflicts of interest.

6 (c) A legislator shall obey all other civil laws, administrative requirements and
7 criminal statutes governing conduct of State government appointees and employees.

8 **"§ 120-292. Participation in legislative actions.**

9 (a) Except as permitted by subsection (c) of this section, no legislator shall
10 knowingly participate in a legislative action if the legislator, a member of the legislator's
11 extended family, the legislator's client, or a business with which the legislator is
12 associated, has a pecuniary or economic interest in, or a reasonably foreseeable benefit
13 from, the matter under consideration, which would impair the legislator's independence
14 of judgment or from which it could reasonably be inferred that the interest or benefit
15 would influence the legislator's participation in the legislative action. A potential benefit
16 includes a detriment to (i) a business competitor of the legislator, (ii) a member of the
17 legislator's extended family, or (iii) a business with which the legislator is associated.

18 (b) A legislator described in subsection (a) of this section shall abstain from
19 participation in the legislative action. The legislator shall submit in writing the reasons
20 for the abstention to the principal clerk of the house of which the legislator is a member.

21 (c) Notwithstanding subsection (a) of this section, a legislator may participate in
22 a legislative action under any of the following circumstances:

23 (1) The only pecuniary or economic interest or reasonably foreseeable
24 benefit that accrues to the legislator, the legislator's extended family,
25 or business with which the legislator is associated as a member of a
26 profession, occupation, or large class, is no greater than that which
27 could reasonably be foreseen to accrue to all members of that
28 profession, occupation, or large class.

29 (2) Where a legislative action affects or would affect the legislator's
30 compensation and allowances as a legislator.

31 (3) Before the legislator participated in the legislative action, the legislator
32 requested and received a written advisory opinion from the Committee
33 that authorized the participation. In authorizing the participation under
34 this subsection, the Committee shall consider the need for the
35 legislator's particular contribution, such as special knowledge of the
36 subject matter, to the effective functioning of the General Assembly.

37 (4) When action is ministerial only and does not require the exercise of
38 discretion.

39 (5) When a legislative body records in its minutes that it cannot obtain a
40 quorum in order to take the legislative action because legislators are
41 disqualified from acting under this section.

42 **"§ 120-293. Employment of members of legislator's extended family.**

43 A legislator shall not cause the employment, appointment, promotion, transfer, or
44 advancement of an extended family member of the legislator to a State or local office or

1 position, except for positions at the General Assembly as permitted by the Legislative
2 Services Commission.

3 **"§ 120-294 through 299. [Reserved]"**

4 "Part 3. Legislative Ethics Committee.

5 **"§ 120-300. Legislative Ethics Committee established."**

6 There is established the Legislative Ethics Committee.

7 **"§ 120-301. Membership."**

8 (a) The Legislative Ethics Committee shall consist of twelve members, six
9 Senators appointed by the President Pro Tempore of the Senate, among them – three
10 from a list of six submitted by the Majority Leader and three from a list of six submitted
11 by the Minority Leader, and six members of the House of Representatives appointed by
12 the Speaker of the House, among them – three from a list of six submitted by the
13 Majority Leader and three from a list of six submitted by the Minority Leader.

14 (b) The President Pro Tempore of the Senate and the Speaker of the House as the
15 appointing officers shall each designate a cochair of the Committee from the respective
16 officer's appointees. The cochair appointed by the President Pro Tempore of the Senate
17 shall preside over the Committee during each odd-numbered year, and the cochair
18 appointed by the Speaker of the House shall preside during each even-numbered year.
19 However, a cochair may preside at any time during the absence of the presiding cochair
20 or upon the presiding cochair's designation. In the event a cochair is unable to act as
21 cochair on a specific matter before the Committee, and so indicates in writing to the
22 appointing officer and the Committee, the respective officer shall designate from that
23 officer's appointees a member to serve as cochair for that specific matter.

24 **"§ 120-302. Term of office; vacancies."**

25 (a) Appointments to the Legislative Ethics Committee shall be made
26 immediately after the convening of the regular session of the General Assembly in
27 odd-numbered years. An appointee shall serve until the expiration of the appointee's
28 then-current term as a member of the General Assembly.

29 (b) A vacancy occurring for any reason during a term shall be filled for the
30 unexpired term by the authority that made the original appointment. The person
31 appointed to fill the vacancy shall, if possible, be a member of the same political party
32 as the member who caused the vacancy.

33 (c) In the event a member of the Committee is unable to act on a specific matter
34 before the Committee, and so indicates in writing to the appointing officer and the
35 Committee, the appointing officer may appoint another member of the respective
36 chamber from a list submitted by the Majority Leader or Minority Leader who
37 nominated the member who is unable to act on the matter to serve as a member of the
38 Committee for the specific matter only. If on any specific matter, the number of
39 members of the Committee who are unable to act on a specific matter exceeds four
40 members, the appropriate appointing officer shall appoint other members of the General
41 Assembly to serve as members of the Committee for that specific matter only.

42 **"§ 120-303. Quorum; expenses of members."**

1 (a) Eight members constitute a quorum of the Committee. A vacancy on the
2 Committee does not impair the right of the remaining members to exercise all the
3 powers of the Committee.

4 (b) The members of the Committee, while serving on the business of the
5 Committee, are performing legislative duties and are entitled to the subsistence and
6 travel allowances to which members of the General Assembly are entitled when
7 performing legislative duties.

8 **"§ 120-304. Powers and duties of Committee.**

9 (a) In addition to the other powers and duties specified in this Article, the
10 Committee may:

11 (1) Prescribe forms for the statements of economic interest and other
12 reports required by this Article, and to furnish these forms to persons
13 who are required to file statements or reports.

14 (2) Receive and file any information voluntarily supplied that exceeds the
15 requirements of this Article.

16 (3) Organize in a reasonable manner statements and reports filed with it
17 and to make these statements and reports available for public
18 inspection and copying during regular office hours. Copying facilities
19 shall be made available at a charge not to exceed the actual cost.

20 (4) Preserve statements and reports filed with the Committee for a period
21 of 10 years from the date of receipt. At the end of the 10-year period,
22 these documents shall be destroyed.

23 (5) Prepare a list of ethical principles and guidelines to be used by
24 legislators and legislative employees to identify potential conflicts of
25 interest and prohibited behavior and to suggest rules of conduct that
26 shall be adhered to by legislators and legislative staff.

27 (6) Advise each General Assembly committee of specific danger areas
28 where conflicts of interest may exist and to suggest rules of conduct
29 that should be adhered to by committee members in order to avoid
30 conflict.

31 (7) Advise General Assembly members or render written opinions if so
32 requested by the member about questions of ethics or possible points
33 of conflict and suggested standards of conduct of members upon
34 ethical points raised.

35 (8) Propose rules of legislative ethics and conduct. The rules, when
36 adopted by the House of Representatives and the Senate, shall be the
37 standards adopted for that term.

38 (9) Upon receipt of information that a legislator owes money to the State
39 and is delinquent in repaying the obligation, to investigate and dispose
40 of the matter according to the terms of this Article.

41 (10) Receive and review all statements of economic interest filed with the
42 Committee by prospective and actual legislators and evaluate whether
43 (i) the statements conform to the law and the rules of the Committee,

1 and (ii) the financial interests and other information reported reveals
2 actual or potential conflicts of interest.

3 (11) Render advisory opinions in accordance with G.S. 120-307.

4 (12) Investigate alleged violations in accordance with G.S. 120-306 and to
5 hire separate legal counsel, through the Legislative Services
6 Commission, for these purposes.

7 (13) Initiate and maintain oversight of ethics educational programs for
8 legislators and legislative employees consistent with G.S. 120-308.

9 (14) Adopt rules to implement this Article, including those establishing
10 ethical standards and guidelines governing legislators and legislative
11 employees in attending to and performing their duties.

12 (15) Perform other duties as may be necessary to accomplish the purposes
13 of this Article.

14 (b) G.S. 120-19.1 through G.S. 120-19.8 shall apply to the proceedings of the
15 Legislative Ethics Committee as if it were a joint committee of the General Assembly,
16 except that both cochairs shall sign all subpoenas on behalf of the Committee.
17 Notwithstanding any other law, every State agency, local governmental agency, and
18 units and subdivisions thereof shall make available to the Committee any documents,
19 records, data, statements or other information, except tax returns or information relating
20 thereto, which the Committee designates as being necessary for the exercise of its
21 powers and duties.

22 **"§ 120-305. Continuing study of ethical questions.**

23 The Committee shall conduct continuing studies of questions of legislative ethics
24 including revisions and improvements of this Article as well as sections to cover the
25 executive branch of government. The Committee shall report to the General Assembly
26 from time to time recommendations for amendments to the statutes and legislative rules
27 that the Committee deems desirable in promoting, maintaining and effectuating high
28 standards of ethics in the legislative branch of State government.

29 **"§ 120-306. Investigations by the Committee.**

30 (a) Institution of Proceedings. – On its own motion, in response to a signed and
31 sworn complaint of any individual filed with the Committee, or upon the written request
32 of any legislator, the Committee shall conduct an investigation into any of the
33 following:

34 (1) The application or alleged violation of this Article.

35 (2) The application or alleged violation of rules adopted in accordance
36 with G.S. 120-304.

37 (3) The alleged violation of the criminal law by a legislator while acting in
38 the legislator's official capacity as a participant in the lawmaking
39 process.

40 (b) Complaint. –

41 (1) A complaint filed under this Article shall state the name, address, and
42 telephone number of the person filing the complaint, the name of the
43 legislator against whom the complaint is filed, and a concise statement
44 of the nature of the complaint and specific facts indicating that a

1 violation of this Article has occurred, the date the alleged violation
2 occurred, and either (i) that the contents of the complaint are within the
3 knowledge of the individual verifying the complaint, or (ii) the basis
4 upon which the individual verifying the complaint believes the
5 allegations to be true.

6 (2) The Committee may decline to accept or investigate any attempted
7 complaint that does not meet all of the requirements set forth in
8 subdivision (1) of this subsection, or the Committee may, in its sole
9 discretion, request additional information to be provided by the
10 complainant within a specified period of time of no less than seven
11 business days.

12 (3) In addition to subdivision (2) of this subsection, the Committee may
13 decline to accept or further investigate a complaint if it determines that
14 any of the following apply:

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

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

18 c. The conduct complained of is primarily a matter more
19 appropriately and adequately addressed and handled by other
20 federal, State or local agencies or authorities, including law
21 enforcement authorities. If other agencies or authorities are
22 conducting an investigation of the same actions or conduct
23 involved in a complaint filed under this section, the Committee
24 may stay its complaint investigation pending final resolution of
25 the other investigation.

26 (4) The Committee shall send a copy of the complaint to the legislator
27 who is the subject of the complaint within 30 days of the filing.

28 (c) Investigation of Complaints by the Committee. – The Committee shall
29 investigate all complaints properly before the Committee in a timely manner. The
30 Committee shall initiate an investigation of a complaint within 60 days of the filing of
31 the complaint, or the complaint shall then become a public record. In determining
32 whether there is reason to believe that a violation has or may have occurred, a member
33 of the Committee can take general notice of available information even if not formally
34 provided to the Committee in the form of a complaint. The Committee may utilize the
35 services of a hired investigator when conducting investigations.

36 (d) Investigation by the Committee of Matters Other Than Complaints. – The
37 Committee may investigate matters other than complaints properly before the
38 Committee under subsection (a) of this section. For any investigation initiated under this
39 subsection, the Committee may take any action it deems necessary or appropriate to
40 further compliance with this Article, including the initiation of a complaint, the issuance
41 of an advisory opinion under G.S. 120-307, or referral to appropriate law enforcement
42 or other authorities pursuant to subsection (i)(2) of this section.

43 (e) Legislator Cooperation With Investigation. – Legislators shall promptly and
44 fully cooperate with the Committee in any Committee-related investigation. Failure to

1 cooperate fully with the Committee in any investigation shall be grounds for sanctions
2 under G.S. 120-325.

3 (f) Dismissal of Complaint After Preliminary Inquiry. – If the Committee
4 determines at the end of its preliminary inquiry that (i) the individual who is the subject
5 of the complaint is not a legislator or (ii) the complaint does not allege facts sufficient to
6 constitute a violation of this Article, the Committee shall dismiss the complaint and
7 provide written notice of the dismissal to the individual who filed the complaint and the
8 person against whom the complaint was filed.

9 (g) Notice. – If at the end of its preliminary inquiry the Committee determines to
10 proceed with further investigation into the conduct of a legislator, the Committee shall
11 provide written notice to the individual who filed the complaint and the legislator as to
12 the fact of the investigation and the charges against the legislator. The legislator shall be
13 given an opportunity to file a written response with the Committee. Upon the notice
14 required under this subsection being sent, the complaint and any written response shall
15 be public records, and all other documents offered at the hearing in conjunction with the
16 complaint, shall be public records.

17 (h) Hearing. –

18 (1) The Committee shall give full and fair consideration to all complaints
19 and responses received. If the Committee determines that the
20 complaint cannot be resolved without a hearing, or if the legislator
21 requests a public hearing, a hearing shall be held.

22 (2) The Committee shall send a notice of the hearing to the complainant,
23 the legislator, and any other member of the public requesting notice.
24 The notice shall contain the time and place for a hearing on the matter,
25 which shall begin no less than 30 days and no more than 90 days after
26 the date of the notice.

27 (3) At any hearing held by the Committee:

28 a. Oral evidence shall be taken only on oath or affirmation.

29 b. The hearing shall be open to the public. The deliberations by
30 the Committee on a complaint may be held in closed session,
31 but the decision of the Committee shall be announced in open
32 session.

33 c. The legislator being investigated shall have the right to present
34 evidence, call and examine witnesses, cross-examine witnesses,
35 introduce exhibits, and be represented by counsel.

36 (i) Disposition of Investigations. – Except as permitted under subsection (f) of
37 this section, after the hearing the Committee shall dispose of a matter before the
38 Committee under this section, in any of the following ways:

39 (1) If the Committee finds that the alleged violation is not established by
40 clear and convincing evidence, the Committee shall dismiss the
41 complaint.

42 (2) If the Committee finds that the alleged violation of this Article is
43 established by clear and convincing evidence, the Committee shall do
44 one or more of the following:

- 1 a. Issue a public or private admonishment to the legislator.
2 b. Refer the matter to the Attorney General for investigation and
3 referral to the district attorney for possible prosecution or the
4 appropriate house for appropriate action, or both, if the
5 Committee finds substantial evidence of a violation of a
6 criminal statute.
7 c. Refer the matter to the appropriate house for appropriate action,
8 which shall include censure and expulsion, if the Committee
9 finds substantial evidence of a violation of this Article or other
10 unethical activities.

11 (3) If the Committee issues an admonishment as provided in subdivision
12 (2)a. of this subsection, the legislator affected may upon written
13 request to the Committee have the matter referred as provided under
14 subdivision (2)c. of this subsection.

15 (j) Effect of Dismissal or Private Admonishment. – In the case of a dismissal or
16 private admonishment, the Committee shall retain its records or findings in confidence,
17 unless the legislator under inquiry requests in writing that the records and findings be
18 made public. If the Committee later finds that a legislator's subsequent unethical
19 activities were similar to and the subject of an earlier private admonishment then the
20 Committee may make public the earlier admonishment and the records and findings
21 related to it.

22 (k) Findings and Record. – The Committee shall render formal and binding
23 opinions of its findings and recommendations made pursuant to complaints or
24 Committee investigations. In all matters in which the complaint is a public record, the
25 Committee shall ensure that a complete record is made and preserved as a public record.

26 (l) Confidentiality. – All motions, complaints, written requests, investigations
27 and investigative materials shall be confidential and not a matter of public record,
28 except as otherwise provided in this section.

29 (m) Any action or lack of action by the Committee under this section shall not
30 limit the right of each house of the General Assembly to discipline or to expel its
31 members.

32 "**§ 120-307. Advisory opinions.**

33 (a) At the request of any legislator, the Committee may render advisory opinions
34 on specific questions involving the meaning and application of this Article and the
35 legislator's compliance with the requirements of this Article. The request shall be in
36 writing, electronic or otherwise, and relate prospectively to real or reasonably
37 anticipated fact settings or circumstances. The Committee shall issue advisory opinions
38 having prospective application only. Reliance upon a requested written advisory opinion
39 on a specific matter shall immunize the legislator, on that matter, from a finding by the
40 Committee of a violation of this Article.

41 (b) Staff to the Committee may issue informal, nonbinding advisory opinions
42 under rules adopted by the Committee.

43 (c) The Committee shall interpret this Article by rules, and these interpretations
44 are binding on all legislators upon publication.

1 (d) The Committee shall publish its advisory opinions at least once a year. These
2 advisory opinions shall be edited for publication purposes as necessary to protect the
3 identities of the individuals requesting opinions.

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

7 **"§ 120-308. Ethics education program.**

8 The Committee shall develop and implement an ethics education and awareness
9 program designed to instill in all legislators and legislative employees a keen and
10 continuing awareness of their ethical obligations and a sensitivity to situations that
11 might result in real or potential conflicts of interest. The Committee shall make basic
12 ethics education and awareness presentations to all legislators and legislative employees
13 upon their election or employment and shall offer periodic refresher presentations as the
14 Committee deems appropriate. Every legislator and legislative employee shall
15 participate in an ethics presentation approved by the Committee within three months of
16 the person's election, appointment or employment in a manner as the Committee deems
17 appropriate.

18 **"§ 120-309 through 314. [Reserved]**

19 "Part 4. Public Disclosure of Economic Interests.

20 **"§ 120-315. Purpose.**

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

36 **"§ 120-316. Statement of economic interest; filing required.**

37 (a) Every legislator who is elected or appointed shall file a statement of
38 economic interest with the Committee before the legislator's initial election or
39 appointment and, except as otherwise filed under subsection (b) of this section, no later
40 than March 15 every year thereafter. A prospective legislator required to file a statement
41 under this Article shall not be appointed or receive a certificate of election, prior to
42 submission by the Committee of the Committee's evaluation of the statement in
43 accordance with this Article.

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

18 (c) The boards of elections shall provide for notification of the statement of
19 economic interest requirements of this Article to be given to any candidate filing for
20 nomination or election to those offices subject to this Article at the time of the filing of
21 candidacy.

22 (d) If a candidate for an office subject to this Article does not file the statement
23 of economic interest within the time required by this Article, the county board of
24 elections immediately shall notify the candidate by certified mail, restricted delivery to
25 addressee only, that, if the statement is not received within 15 days, the candidate shall
26 not be certified as the party nominee, or in the case of a candidate nominated by a new
27 party under G.S. 163-98 that the candidate shall be decertified by the State Board of
28 Elections. If the statement is not received within 15 days of notification, the board of
29 elections authorized to certify a candidate as nominee to the office shall not certify the
30 candidate as nominee under any circumstances, regardless of the number of candidates
31 for the nomination and regardless of the number of votes the candidate receives in the
32 primary. If the delinquent candidate was nominated by a new party under G.S. 163-98,
33 the State Board of Elections shall decertify the candidate, and no county board of
34 elections shall place the candidate's name on the general election ballot as nominee of
35 the party. A vacancy thus created on a party's ticket shall be considered a vacancy for
36 the purposes of G.S. 163-114, and shall be filled according to the procedures set out in
37 G.S. 163-114.

38 (e) Every person appointed to fill a vacant seat in the General Assembly under
39 G.S. 163-11 shall file with the Legislative Services Office and the county board of
40 elections of each county in the senatorial or representative district a statement of
41 economic interest as specified in this Article no later than 10 days after taking the oath
42 of office. If a person required to file a statement of economic interest as required under
43 this section fails to file the statement within the time required by this section, the
44 Legislative Services Officer shall notify the person that the statement must be received

1 within 15 days of notification. If the statement is not received within the time allowed in
2 this subsection, then the Legislative Services Officer shall notify the Legislative Ethics
3 Committee of the failure of the person to file the statement.

4 (f) The chair of the board of elections shall forward a certified copy of the
5 statement of economic interest to the Committee for evaluation within 10 days of the
6 date the statement of economic interest is filed with the board of elections.

7 (g) The Committee shall issue forms to be used for the statement of economic
8 interest and shall revise the forms from time to time as necessary to carry out the
9 purposes of this Article. Except as otherwise set forth in this section, the Committee
10 shall furnish the appropriate forms needed to comply with this Article to legislators.

11 **"§ 120-317. Statements of economic interest as public records.**

12 The statements of economic interest filed under this Article, and all other written
13 evaluations by the Committee of those statements, shall be filed with the Legislative
14 Services Office, made available in the Legislative Library, and be public records.

15 **"§ 120-318. Contents of statement.**

16 (a) Any statement of economic interest required to be filed under this Article
17 shall be on a form prescribed by the Committee and sworn to by the person required to
18 file. Answers must be provided to all questions. The form shall include the following
19 information about the person and the person's immediate family:

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

22 (2) A list of each asset and liability of whatever nature, including legal,
23 equitable, or beneficial interest, with a value of at least ten thousand
24 dollars (\$10,000) of the person, and that person's spouse. This list shall
25 include the following:

26 a. All real estate located in the State owned wholly or in part by
27 the person or the person's spouse, including specific
28 descriptions adequate to determine the location of each parcel
29 and the specific interest held by the person and the person's
30 spouse in each identified parcel.

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

32 c. Personal property sold to or bought from the State within the
33 preceding two years.

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

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

37 f. The name of each nonpublicly owned company or business
38 entity in which the value of securities or other equity interests
39 held exceeds ten thousand dollars (\$10,000), including interests
40 in partnerships, limited partnerships, joint ventures, limited
41 liability companies or partnerships, and closely held
42 corporations. For each company or business entity listed under
43 this sub-subdivision, the person shall indicate whether the listed
44 company or entity owns securities or equity interests exceeding

1 a value of ten thousand dollars (\$10,000) in any other
2 companies or entities. If so, then the other companies or entities
3 shall also be listed with a brief description of the business
4 activity of each.

5 g. If the person or a member of the person's immediate family is
6 the beneficiary of a vested trust created, established, or
7 controlled by the person, then the name and address of the
8 trustee and a description of the trust shall be provided. To the
9 extent such information is available to the person, the statement
10 also shall include a list of businesses in which the trust has an
11 ownership interest exceeding ten thousand dollars (\$10,000).

12 h. The person shall make a good faith effort to list any individual
13 or business entity with which the person, the person's extended
14 family, or any business with which the person or a member of
15 the person's extended family is associated, has a financial or
16 professional relationship provided (i) a reasonable person would
17 conclude that the nature of the financial or professional
18 relationship presents a conflict of interest or the appearance of a
19 conflict of interest for the person; or (ii) a reasonable person
20 would conclude that any other financial or professional interest
21 of the individual or business entity would present a conflict of
22 interest or appearance of a conflict of interest for the person.
23 For each individual or business entity listed under this
24 subsection, the person shall describe the financial or
25 professional relationship and provide an explanation of why the
26 individual or business entity has been listed.

27 i. A list of all other assets and liabilities with a valuation of at
28 least ten thousand dollars (\$10,000), including bank accounts
29 and debts.

30 j. A list of each source (not specific amounts) of income
31 (including capital gains) shown on the most recent federal and
32 State income tax returns of the person filing where ten thousand
33 dollars (\$10,000) or more was received from that source.

34 k. If the person is a practicing attorney, an indication of whether
35 the person, or the law firm with which the person is affiliated,
36 earned legal fees during any single year of the past five years in
37 excess of ten thousand dollars (\$10,000) from any of the
38 following categories of legal representation:

- 39 1. Administrative law.
- 40 2. Admiralty.
- 41 3. Corporation law.
- 42 4. Criminal law.
- 43 5. Decedents' estates.
- 44 6. Insurance law.

- 1 7. Labor law.
- 2 8. Local government.
- 3 9. Negligence – defendant.
- 4 10. Negligence – plaintiff.
- 5 11. Real property.
- 6 12. Taxation.
- 7 13. Utilities regulation.
- 8 1. A list of all nonpublicly owned businesses with which, during
9 the past five years, the person or the person's immediate family
10 has been associated or has an economic interest, indicating the
11 time period of that association and the relationship with each
12 business as an officer, employee, director, partner, or owner.
13 The list also shall indicate whether each does business with, or
14 is regulated by, the State and the nature of the business, if any,
15 done with the State.
- 16 m. A list of all gifts, and the sources of the gifts, of a value of more
17 than one thousand dollars (\$1,000) received during the 12
18 months preceding the reporting period under subsection (b) of
19 this section from sources other than the person's extended
20 family, and a list of all gifts, and the sources of the gifts, valued
21 in excess of five hundred dollars (\$500.00) received from any
22 source having business with, or regulated by, the State.
- 23 n. A list of all bankruptcies filed during the preceding five years
24 by the person, the person's spouse, or any entity in which the
25 person, or the person's spouse, has been associated financially.
26 A brief summary of the facts and circumstances regarding each
27 listed bankruptcy shall be provided.
- 28 o. A list of all directorships on all business boards of which the
29 person or the person's immediate family is a member.
- 30 (3) Each statement of economic interest shall contain the person's sworn
31 certification that the person has read the statement and that, to the best
32 of the person's knowledge and belief, the statement is true, correct, and
33 complete. The person's sworn certification also shall provide that the
34 person has not transferred, and will not transfer, any asset, interest, or
35 other property for the purpose of concealing it from disclosure while
36 retaining an equitable interest therein.
- 37 (4) If the person believes a potential for conflict exists, the person has a
38 duty to inquire of the Committee as to that potential conflict.
- 39 (b) All information provided in the statement of economic interest shall be
40 current as of the last day of December of the year preceding the date the statement of
41 economic interest was signed.
- 42 (c) The Committee shall prepare a written evaluation of each statement of
43 economic interest relative to conflicts of interest and potential conflicts of interest. The
44 Committee shall submit the evaluation to all of the following:

1 (1) The person who submitted the statement.

2 (2) The Legislative Services Office.

3 **"§ 120-319. Failure to file.**

4 (a) In addition to the provision of G.S. 120-316, within 30 days after the date due
5 in accordance with G.S. 120-316, for every person from whom a statement of economic
6 interest has not been received by the Committee, or whose statement of economic
7 interest has been received by the Committee but deemed by the Committee to be
8 incomplete, the Committee shall notify the person of the failure to file or complete and
9 shall notify the person that if the statement of economic interest is not filed or
10 completed within 30 days of receipt of the notice of failure to file or complete, the
11 person shall be subject to a fine under this section.

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

17 (c) Failure by any person to file or complete a statement of economic interest
18 within 60 days of the receipt of the notice required under subsection (a) of this section
19 shall be deemed to be a violation of this Article and shall be grounds for disciplinary
20 action under G.S. 120-325.

21 **"§ 120-320. Concealing or failing to disclose material information.**

22 A person who knowingly conceals or fails to disclose information that is required to
23 be disclosed on a statement of economic interest under this Article shall be punished as
24 a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 120-325.

25 **"§ 120-321. Penalty for false or misleading information.**

26 A person who provides false or misleading information on a statement of economic
27 interest as required under this Article knowing that the information is false or
28 misleading shall be punished as a Class H felon and shall be subject to disciplinary
29 action under G.S. 120-325.

30 **"§ 120-322 through 324. [Reserved]**

31 "Part 5. Violation Consequences.

32 **"§ 120-325. Violation consequences.**

33 (a) Violation of this Article by any legislator or legislative employee is grounds
34 for disciplinary action. Except as specifically provided in this Article or for perjury
35 under G.S. 120-306 and G.S. 120-318, no criminal penalty shall attach for any violation
36 of this Article.

37 (b) The willful failure of any legislator to comply with this Article shall be
38 deemed a violation of this Article for purposes of G.S. 120-306.

39 (c) Nothing in this Article affects the power of the State to prosecute any person
40 for any violation of the criminal law.

41 (d) The Legislative Ethics Committee may request the Office of the Attorney
42 General to seek to enjoin violations of G.S. 120-288."

43 **SECTION 3.** Article 7 of Chapter 120 of the General Statutes is amended by
44 adding the following new section to read:

1 **"§ 120-32.6. Certain employment authority.**

2 G.S. 114-2.3 and G.S. 147-17 shall not apply to the General Assembly."

3 **SECTION 4.** Section 1 of this act becomes effective January 1, 2007. The
4 remainder of this act becomes effective October 1, 2006, applies to persons holding
5 office and employed on or after January 1, 2007, to acts and conflicts of interest that
6 arise on or after January 1, 2007, and to offenses committed on or after January 1, 2007.
7 Prosecutions for offenses or ethics violations committed before January 1, 2007, are not
8 abated or affected by this act and the statutes that would be applicable but for this act
9 remain applicable to those prosecutions.