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Short Title: State Government Ethics Act - 1.

(Public)

Sponsors:

Referred to:

May 10, 2006

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE STATE GOVERNMENT ETHICS ACT, TO  
CREATE THE STATE ETHICS COMMISSION, TO ESTABLISH ETHICAL  
STANDARDS FOR CERTAIN STATE PUBLIC OFFICERS, STATE  
EMPLOYEES, AND APPOINTEES TO NONADVISORY STATE BOARDS AND  
COMMISSIONS, TO REQUIRE PUBLIC DISCLOSURE OF ECONOMIC  
INTERESTS BY CERTAIN PERSONS IN THE EXECUTIVE, LEGISLATIVE,  
AND JUDICIAL BRANCHES, TO AMEND THE LOBBYING LAWS, AND TO  
MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

**PART I. ENACT THE STATE GOVERNMENT ETHICS ACT.**

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

**"Chapter 138A.**

**"State Government Ethics Act.**

**"Article 1.**

**"General Provisions.**

**"§ 138A-1. Title.**

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

**"§ 138A-2. Purpose.**

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

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

20 **"§ 138A-3. Definitions.**

21 The following definitions apply in this Chapter:

- 22 (1) Board. – Any State board, commission, council, committee, task force,  
23 authority, or similar public body, however denominated, created by  
24 statute or executive order, except for those public bodies that have  
25 only advisory authority, as determined and designated by the  
26 Commission.
- 27 (2) Business. – Any of the following for profit:  
28 a. Association.  
29 b. Corporation.  
30 c. Enterprise.  
31 d. Joint venture.  
32 e. Organization.  
33 f. Partnership.  
34 g. Proprietorship.  
35 h. Vested trust.  
36 i. Every other business interest, including ownership or use of  
37 land for income.
- 38 (3) Business associate. – A partner, or member or manager of a limited  
39 liability company.
- 40 (4) Business with which associated. – A business in which the person or  
41 any member of the person's immediate family does any of the  
42 following:  
43 a. Is an employee.

- 1           b. Holds a position as an associate, director, officer, business  
2           associate, or proprietor, irrespective of the amount of  
3           compensation received or the amount of the interest owned.  
4           c. Owns a legal, equitable, or beneficial interest of ten thousand  
5           dollars (\$10,000) or more or five percent (5%), whichever is  
6           less, in the business.

7           For purposes of this subdivision, the term 'business' shall not  
8           include a widely held investment fund, including a mutual fund,  
9           regulated investment company, or pension or deferred compensation  
10          plan, if all of the following apply:

- 11          a. The person or a member of the person's immediate family  
12          neither exercises nor has the ability to exercise control over the  
13          financial interests held by the fund.  
14          b. The fund is publicly traded, or the fund's assets are widely  
15          diversified.
- 16          (5) Commission. – The State Ethics Commission.  
17          (6) Committee. – The Legislative Ethics Committee as created in Part 3 of  
18          Article 14 of Chapter 120 of the General Statutes.  
19          (7) Compensation. – Any money, thing of value, or economic benefit  
20          conferred on or received by any person in return for services rendered  
21          or to be rendered by that person or another. This term does not include  
22          campaign contributions properly received and, if applicable, reported  
23          as required by Article 22A of Chapter 163 of the General Statutes.  
24          (8) Confidential information. – Information defined as confidential by the  
25          General Statutes.  
26          (9) Constitutional officers of the State. – Officers whose offices are  
27          established by Article III of the North Carolina Constitution.  
28          (10) Contract. – Any agreement, including sales and conveyances of real  
29          and personal property, and agreements for the performance of services.  
30          (11) Covered person. – A legislator, public servant, or judicial officer, as  
31          identified by the Commission under G.S. 138A-11.  
32          (12) Economic interest. – Matters involving a business with which the  
33          person is associated or a nonprofit corporation or organization with  
34          which the person is associated.  
35          (13) Employing entity. – For public servants, any of the following bodies of  
36          State government of which the public servant is an employee or a  
37          member, or over which the public servant exercises supervision:  
38          agencies, authorities, boards, commissions, committees, councils,  
39          departments, offices, institutions and their subdivisions, and  
40          constitutional offices of the State. For legislators, it is the house of  
41          which the legislator is a member. For judicial employees, it is the  
42          Chief Justice.

- 1           (14) Extended family. – Spouse, lineal descendant, lineal ascendant,  
2           sibling, spouse's lineal ascendant, spouse's lineal descendant, spouse's  
3           sibling, and the spouse of any of these persons.
- 4           (15) Filing person. – A person required to file a statement of economic  
5           interest under G. S. 138A-22.
- 6           (16) Gift. – Anything of monetary value given or received without valuable  
7           consideration by or from a lobbyist, lobbyist principal, or a person  
8           described under G.S. 138A-32(d)(1), (2), or (3). The following shall  
9           not be considered gifts under this subdivision:
- 10           a. Anything for which fair market value, or face value if shown, is  
11           paid by the covered person or legislative employee.
- 12           b. Commercially available loans made on terms not more  
13           favorable than generally available to the general public in the  
14           normal course of business if not made for the purpose of  
15           lobbying.
- 16           c. Contractual arrangements or commercial relationships or  
17           arrangements made in the normal course of business if not  
18           made for the purpose of lobbying.
- 19           d. Academic or athletic scholarships based on the same criteria as  
20           applied to the public.
- 21           e. Campaign contributions properly received and reported as  
22           required under Article 22A of Chapter 163 of the General  
23           Statutes.
- 24           f. Anything of value given or received as part of a business, civic,  
25           religious, fraternal, personal, or commercial relationship not  
26           related to the person's public service or position and not made  
27           for the purpose of lobbying.
- 28           (17) Honorarium. – Payment for services for which fees are not legally or  
29           traditionally required.
- 30           (18) Immediate family. – An unemancipated child of the covered person  
31           residing in the household and the covered person's spouse, if not  
32           legally separated. A member of a covered person's extended family  
33           shall also be considered a member of the immediate family if actually  
34           residing in the covered person's household.
- 35           (19) Judicial employee. – The director and assistant director of the  
36           Administrative Office of the Courts and any other person, designated  
37           by the Chief Justice, employed in the Judicial Department whose  
38           annual compensation from the State is sixty thousand dollars (\$60,000)  
39           or more.
- 40           (20) Judicial officer. – Justice or judge of the General Court of Justice,  
41           district attorney, clerk of court, or any person elected or appointed to  
42           any of these positions prior to taking office.
- 43           (21) Legislative action. – As the term is defined in G.S. 120C-100.
- 44           (22) Legislative employee. – As the term is defined in G.S. 120C-100.

- 1           (23) Legislator. – A member or presiding officer of the General Assembly,  
2           or a person elected or appointed a member or presiding officer of the  
3           General Assembly before taking office.
- 4           (24) Lobbying. – As the term is defined in G.S. 120C-100.
- 5           (25) Nonprofit corporation or organization with which associated. – Any  
6           public or private enterprise, incorporated or otherwise, that is  
7           organized or operating in the State primarily for religious, charitable,  
8           scientific, literary, public health and safety, or educational purposes  
9           and of which the person or any member of the person's immediate  
10           family is a director, officer, governing board member, employee, or  
11           independent contractor as of December 31 of the preceding year.
- 12           (26) Official action. – Any decision, including administration, approval,  
13           disapproval, preparation, recommendation, the rendering of advice,  
14           and investigation, made or contemplated in any proceeding,  
15           application, submission, request for a ruling or other determination,  
16           contract, claim, controversy, investigation, charge, or rule making.
- 17           (27) Participate. – To take part in, influence, or attempt to influence,  
18           including acting through an agent or proxy.
- 19           (28) Political party. – Either of the two largest political parties in the State  
20           based on statewide voter registration at the applicable time.
- 21           (29) Person. – Any individual, firm, partnership, committee, association,  
22           corporation, business, or any other organization or group of persons  
23           acting together.
- 24           (30) Public event. – Any of the following:
- 25           a.     An organized gathering of individuals open to the general  
26           public to which tickets may or may not be issued or sold and to  
27           which all legislators or legislative employees are invited to  
28           attend.
- 29           b.     An organized gathering of a governmental body, the gathering  
30           of which is subject to the open meetings law, and to which a  
31           legislator or legislative employee is invited to attend along with  
32           the entire membership of the House of Representatives, Senate,  
33           a committee, a standing subcommittee, a county legislative  
34           delegation, a municipal legislative delegation, a joint  
35           committee, or a legislative caucus.
- 36           c.     An organized gathering of a person to which a legislator or  
37           legislative employee is invited along with the entire  
38           membership of the House of Representatives, Senate, a  
39           committee, a standing subcommittee, a county legislative  
40           delegation, a municipal legislative delegation, a joint  
41           committee, or a legislative caucus and to which at least 10  
42           individuals, other than the legislator or legislative employee, or  
43           the spouse of the legislator or legislative employee, actually  
44           attend, or to which all shareholders, employees, board

- 1                    members, officers, members, or subscribers of the person who  
2                    are located in a specific North Carolina office or county are  
3                    notified and invited to attend.
- 4                    d. An organized gathering of individuals open to the general  
5                    public to which tickets may or may not be issued or sold and to  
6                    which at least 10 public servants are invited to attend.
- 7                    e. An organized gathering of a governmental body, the gathering  
8                    of which is subject to the open meetings law, and to which at  
9                    least 10 public servants are invited to attend.
- 10                  f. An organized gathering of a person to which at least 10 public  
11                  servants are invited to attend and to which at least 10  
12                  individuals, other than the public servant, or the public servant's  
13                  spouse, actually attend, or to which all shareholders, employees,  
14                  board members, officers, members, or subscribers of the person  
15                  who are located in a specific North Carolina office or county  
16                  are notified and invited to attend.
- 17                  (31) Public servants. – All of the following:
- 18                  a. Constitutional officers of the State and persons elected or  
19                  appointed as constitutional officers of the State prior to taking  
20                  office.
- 21                  b. Employees of the Office of the Governor.
- 22                  c. Heads of all principal State departments, as set forth in  
23                  G.S. 143B-6, who are appointed by the Governor.
- 24                  d. The chief deputy and chief administrative assistant of each  
25                  person designated under sub-subdivision a. or c. of this  
26                  subdivision.
- 27                  e. Confidential assistants and secretaries as defined in  
28                  G.S. 126-5(c)(2), to persons designated under sub-subdivision  
29                  a., c., or d. of this subdivision.
- 30                  f. Employees in exempt positions designated in accordance with  
31                  G.S. 126-5(d)(1), (2), or (2a) and confidential secretaries to  
32                  these individuals.
- 33                  g. Any other employees or appointees in the principal State  
34                  departments as may be designated by the Governor to the extent  
35                  that the designation does not conflict with the State Personnel  
36                  Act.
- 37                  h. Judicial employees.
- 38                  i. All voting members of boards, including ex officio members  
39                  and members serving by executive, legislative, or judicial  
40                  branch appointment.
- 41                  j. For The University of North Carolina, the voting members of  
42                  the Board of Governors of The University of North Carolina,  
43                  the president, the vice-presidents, and the chancellors, the

1                    vice-chancellors, and voting members of the boards of trustees  
2                    of the constituent institutions.

3                    k. For the Community College System, the voting members of the  
4                    State Board of Community Colleges, the President and the chief  
5                    financial officer of the Community College System, the  
6                    president, chief financial officer, and chief administrative  
7                    officer of each community college, and voting members of the  
8                    boards of trustees of each community college.

9                    l. Members of the Commission.

10                   m. Persons under contract with the State working in or against a  
11                   position included under this subdivision.

12                   (32) Vested trust. – A trust, annuity, or other funds held by a trustee or  
13                   other third party for the benefit of the covered person or a member of  
14                   the covered person's immediate family. A vested trust shall not include  
15                   a widely held investment fund, including a mutual fund, regulated  
16                   investment company, or pension or deferred compensation plan, if:

17                   a. The covered person or a member of the covered person's  
18                   immediate family neither exercises nor has the ability to  
19                   exercise control over the financial interests held by the fund;  
20                   and

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

23                   **"§§ 138A-4 and 138A-5: [Reserved]"**

24                   "Article 2.

25                   "State Ethics Commission.

26                   **"§ 138A-6. State Ethics Commission established.**

27                   There is established the State Ethics Commission.

28                   **"§ 138A-7. Membership.**

29                   (a) The Commission shall consist of eight members. Four members shall be  
30                   appointed by the Governor, of whom no more than two shall be of the same political  
31                   party. Four members shall be appointed by the General Assembly, two upon the  
32                   recommendation of the Speaker of the House of Representatives, neither of whom may  
33                   be of the same political party, and two upon the recommendation of the President Pro  
34                   Tempore of the Senate, neither of whom may be of the same political party. Members  
35                   shall serve for four-year terms, beginning January 1, 2007, except for the initial terms  
36                   that shall be as follows:

37                   (1) Two members appointed by the Governor shall serve an initial term of  
38                   one year.

39                   (2) Two members appointed by the General Assembly, one upon the  
40                   recommendation of the Speaker of the House of Representatives and  
41                   one upon the recommendation of the President Pro Tempore of the  
42                   Senate, shall serve initial terms of two years.

43                   (3) Two members appointed by the Governor shall serve initial terms of  
44                   three years.

1           (4) Two members appointed by the General Assembly, one upon the  
2 recommendation of the Speaker of the House of Representatives and  
3 one member upon the recommendation of the President Pro Tempore  
4 of the Senate, shall serve initial terms of four years.

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

7           (c) Vacancies in appointments made by the Governor shall be filled by the  
8 Governor for the remainder of any unfulfilled term. Vacancies in appointments made by  
9 the General Assembly shall be filled in accordance with G.S. 120-122 for the remainder  
10 of any unfulfilled term.

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

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

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

17           (3) Participate in or contribute to the political campaign of any covered  
18 person or any candidate for a public office as a covered person over  
19 which the Commission would have jurisdiction or authority.

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

22          (e) The Governor shall annually appoint a member of the Commission to serve as  
23 chair of the Commission. The Commission shall elect a vice-chair annually from its  
24 membership. The vice-chair shall act as the chair in the chair's absence or if there is a  
25 vacancy in that position.

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

29 **"§ 138A-8. Meetings and quorum.**

30 The Commission shall meet at least quarterly and at other times as called by its  
31 chair; in the case of a vacancy in the chair, by the vice-chair; or by four of its members.  
32 Five members of the Commission constitute a quorum.

33 **"§ 138A-9. Staff and offices.**

34 The Commission may employ professional and clerical staff, including an executive  
35 director. The Commission shall be located within the Department of Administration for  
36 administrative purposes only, but shall exercise all of its powers, including the power to  
37 employ, direct, and supervise all personnel, independently of the Secretary of  
38 Administration, and is subject to the direction and supervision of the Secretary of  
39 Administration only with respect to the management functions of coordinating and  
40 reporting.

41 **"§ 138A-10. Powers and duties.**

42          (a) In addition to other powers and duties specified in this Chapter, the  
43 Commission shall:



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

1       (b) The Commission may authorize the Executive Director and other staff of the  
2 Commission to evaluate statements of economic interest on behalf of the Commission  
3 as authorized under subdivision (a)(4) of this section.

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. Prior to adoption  
6 of rules, the Committee shall:

7           (1) Publish the proposed rules in the North Carolina Register at least 30  
8 days prior to the adoption of the rule.

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

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

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

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

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

23 **"§ 138A-11. Identify and publish names of covered persons and legislative**  
24 **employees.**

25       The Commission shall identify and publish at least quarterly a listing of the names  
26 and positions of all persons subject to this Chapter as covered persons or legislative  
27 employees. This listing may be published electronically on a public Internet Web site  
28 maintained by the Commission.

29 **"§ 138A-12. Investigations by the Commission.**

30       (a) Jurisdiction. – The Commission may receive complaints alleging unethical  
31 conduct by covered persons and legislative employees and shall investigate complaints  
32 alleging unethical conduct by covered persons and legislative employees as set forth in  
33 this section.

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

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

40           (2) The application or alleged violation of rules adopted in accordance  
41 with G.S. 138A-10.

42           (3) For legislators, the application of alleged violations of Part 1 of Article  
43 14 of Chapter 120 of the General Statutes.

1           (4) An alleged violation of the criminal law by a covered person in the  
2           performance of that individual's official duties.

3           (5) An alleged violation of G.S. 126-14.

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

6       (c) Complaint. –

7           (1) A sworn complaint filed under this Chapter shall state the name,  
8           address, and telephone number of the person filing the complaint, the  
9           name and job title or appointive position of the person against whom  
10           the complaint is filed, and a concise statement of the nature of the  
11           complaint and specific facts indicating that a violation of this Chapter  
12           or Chapter 120 of the General Statutes has occurred, the date the  
13           alleged violation occurred, and either (i) that the contents of the  
14           complaint are within the knowledge of the individual verifying the  
15           complaint, or (ii) the basis upon which the individual verifying the  
16           complaint believes the allegations to be true.

17           (2) Except as provided in subsection (d) of this section, a complaint filed  
18           under this Chapter must be filed within one year of the date the  
19           complainant knew or should have known of the conduct upon which  
20           the complaint is based.

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

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

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

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

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

41           (5) The Commission shall send a copy of the complaint to the covered  
42           person who is the subject of the complaint within 30 days of the filing.

43       (d) Investigation of Complaints by the Commission. – The Commission shall  
44       investigate all complaints properly before the Commission in a timely manner. The

1 Commission shall initiate an investigation of a complaint within 60 days of the filing of  
2 the complaint. The Commission is authorized to initiate investigations upon request of  
3 any member of the Commission if there is reason to believe that a covered person or  
4 legislative employee has or may have violated this Chapter. There is no time limit on  
5 Commission-initiated complaint investigations under this section. In determining  
6 whether there is reason to believe that a violation has or may have occurred, a member  
7 of the Commission may take general notice of available information even if not  
8 formally provided to the Commission in the form of a complaint. The Commission may  
9 utilize the services of a hired investigator when conducting investigations.

10 (e) Investigation by the Commission of Matters Other Than Complaints. – The  
11 Commission may investigate matters concerning covered persons or legislative  
12 employees other than complaints properly before the Commission under subsection (b)  
13 of this section. For any investigation initiated under this subsection, the Commission  
14 may take any action it deems necessary or appropriate to further compliance with this  
15 Chapter, including the initiation of a complaint, the issuance of an advisory opinion  
16 under G.S. 138A-13, or referral to appropriate law enforcement or other authorities  
17 pursuant to subdivision (1)(1) of this section.

18 (f) Covered Person and Legislative Employees Cooperation With Investigation.  
19 – Covered persons and legislative employees shall promptly and fully cooperate with  
20 the Commission in any Commission-related investigation. Failure to cooperate fully  
21 with the Commission in any investigation shall be grounds for sanctions as set forth in  
22 G.S. 138A-45.

23 (g) Dismissal of Complaint After Preliminary Inquiry. – If the Commission  
24 determines at the end of its preliminary inquiry that (i) the individual who is the subject  
25 of the complaint is not a covered person or legislative employee subject to the  
26 Commission's jurisdiction and authority under this Chapter, or (ii) the complaint does  
27 not allege facts sufficient to constitute a violation of this Chapter, the Commission shall  
28 dismiss the complaint.

29 (h) Commission Investigations. – If at the end of its preliminary inquiry, the  
30 Commission determines to proceed with further investigation into the conduct of a  
31 covered person or legislative employee, the Commission shall provide written notice to  
32 the individual who filed the complaint and the covered person or legislative employee  
33 as to the fact of the investigation and the charges against the covered person or  
34 legislative employee. The covered person or legislative employee shall be given an  
35 opportunity to file a written response with the Commission.

36 (i) Action on Investigations. – The Commission shall investigate complaints to  
37 the extent necessary to either dismiss the complaint for lack of probable cause of a  
38 violation under this section, or:

- 39 (1) For public servants and legislative employees, decide to proceed with a  
40 hearing under subsection (j) of this section.
- 41 (2) For legislators, refer the complaint to the Committee.
- 42 (3) For judicial officers, refer the complaint to the Judicial Standards  
43 Commission for complaints against justices and judges, or to the  
44 senior resident superior court judge of the district or county for

1 complaints against district attorneys, or to the chief district court judge  
2 for the district or county for complaints against clerks of court.

3 (j) Hearing. –

4 (1) The Commission shall give full and fair consideration to all complaints  
5 received against a public servant or legislative employee. If the  
6 Commission determines that the complaint cannot be resolved without  
7 a hearing, or if the public servant or legislative employee requests a  
8 hearing, a hearing shall be held.

9 (2) The Commission shall send a notice of the hearing to the complainant,  
10 and the public servant or legislative employee. The notice shall contain  
11 the time and place for a hearing on the matter, which shall begin no  
12 less than 30 days and no more than 90 days after the date of the notice.

13 (3) The Commission shall make available to the public servant or  
14 legislative employee prior to a hearing all relevant information  
15 collected by the Commission in connection with its investigation of a  
16 complaint.

17 (4) At any hearing held by the Commission:

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

19 b. The hearing shall be held in closed session unless the public  
20 servant or legislative employee requests that the hearing be held  
21 in open session. In any event, the deliberations by the  
22 Commission on a complaint may be held in closed session.

23 c. The public servant or legislative employee being investigated  
24 shall have the right to present evidence, call and examine  
25 witnesses, cross-examine witnesses, introduce exhibits, and be  
26 represented by counsel.

27 (k) Settlement of Investigations. – The public servant or legislative employee  
28 who is the subject of the complaint and the staff of the Commission may meet by  
29 mutual consent before the hearing to discuss the possibility of settlement of the  
30 investigation or the stipulation of any issues, facts, or matters of law. Any proposed  
31 settlement of the investigation is subject to the approval of the Commission.

32 (l) Disposition of Investigations. – Except as permitted under subsections (g) and  
33 (i) of this section, after hearing, the Commission shall dispose of the matter in one or  
34 more of the following ways:

35 (1) If the Commission finds substantial evidence of an alleged violation of  
36 a criminal statute, the Commission shall refer the matter to the  
37 Attorney General for investigation and referral to the district attorney  
38 for possible prosecution.

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

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

- 1           a.     Issue a private admonishment to the public servant or legislative  
2           employee and notify the employing entity, if applicable.  
3           b.     Refer the matter for appropriate action to the Governor and the  
4           employing entity that appointed or employed the public servant  
5           or of which the public servant is a member.  
6           c.     Refer the matter for appropriate action to the Chief Justice for  
7           judicial employees.  
8           d.     Refer the matter to the Principal Clerks of the House of  
9           Representatives and Senate of the General Assembly for  
10          constitutional officers of the State.  
11          e.     Refer the matter to the Legislative Services Commission for  
12          legislative employees.

13          (m)   Notice of Dismissal. – Upon the dismissal of a complaint under this section,  
14          the Commission shall provide written notice of the dismissal to the individual who filed  
15          the complaint and the person against whom the complaint was filed. The Commission  
16          shall forward copies of complaints and notices of dismissal of complaints against  
17          legislators to the Committee, and against judicial officers to the Judicial Standards  
18          Commission for complaints against justices and judges, and the senior resident superior  
19          court judge of the district or county for complaints against district attorneys, or the chief  
20          district court judge of the district or county for complaints against clerks of court.

21          (n)   Findings and Record. – The Commission shall render a written report of a  
22          violation of this Chapter made pursuant to complaints or the Commission's  
23          investigation. When a matter is referred under subsection (i) or (l) of this section, the  
24          Commission's report shall include detailed results of its investigation in support of the  
25          Commission's finding of a violation of this Chapter.

26          (o)   Confidentiality. – Complaints and responses filed with the Commission and  
27          reports and other investigative documents and records of the Commission connected to  
28          an investigation under this section shall be confidential and not matters of public record,  
29          except when the covered person or legislative employee under inquiry requests in  
30          writing that the records and findings be made public prior to the time the employing  
31          entity imposes sanctions. At such time as public sanctions are imposed on a covered  
32          person, the complaint, response, and Commission's report to the employing entity shall  
33          be made public.

34          (p)   Recommendations of Sanctions. – After referring a matter under subsection  
35          (l) of this section, if requested by the entity to which the matter was referred, the  
36          Commission may recommend sanctions or issue rulings as it deems necessary or  
37          appropriate to protect the public interest and ensure compliance with this Chapter. In  
38          recommending appropriate sanctions, the Commission may consider the following  
39          factors:

- 40               (1)   The public servant's or legislative employee's prior experience in an  
41               agency or on a board and prior opportunities to learn the ethical  
42               standards for public servant or legislative employee as set forth in  
43               Article 4 of this Chapter, including those dealing with conflicts of  
44               interest.

- 1           (2)    The number of ethics violations.
- 2           (3)    The severity of the ethics violations.
- 3           (4)    Whether the ethics violations involve the public servant's or legislative  
4           employee's financial interests or arise from an appearance of conflict  
5           of interest.
- 6           (5)    Whether the ethics violations were inadvertent or intentional.
- 7           (6)    Whether the public servant or legislative employee knew or should  
8           have known that the improper conduct was a violation of this Chapter.
- 9           (7)    Whether the public servant or legislative employee has previously  
10          been advised or warned by the Commission.
- 11          (8)    Whether the conduct or situation giving rise to the ethics violation was  
12          pointed out to the public servant in the Commission's Statement of  
13          Economic Interest evaluation letter issued under G.S. 138A-24(c).
- 14          (9)    The public servant's or legislative employee's motivation or reason for  
15          the improper conduct or actions, including whether the action was for  
16          personal financial gain versus protection of the public interest.

17        In making recommendations under this subsection, if the Commission determines,  
18        after proper review and investigation, that sanctions are appropriate, the Commission  
19        may recommend any action it deems necessary to properly address and rectify any  
20        violation of this Chapter by a public servant or legislative employee, including removal  
21        of the public servant or legislative employee from the public servant's or legislative  
22        employee's State position. Nothing in this subsection is intended, and shall not be  
23        construed, to give the Commission any independent civil, criminal, or administrative  
24        investigative or enforcement authority over covered persons, or other State employees  
25        or appointees.

26        (q) Authority of Employing Entity. – Any action or failure to act by the  
27        Commission under this Chapter, except G.S. 138A-13, shall not limit any authority of  
28        any of the applicable employing entity to discipline the covered person or legislative  
29        employee.

30        (r) Continuing Jurisdiction. – The Commission shall have continuing jurisdiction  
31        to continue to investigate possible criminal violations of this Chapter for a period of one  
32        year following the date a person who was formerly a public servant or legislative  
33        employee ceases to be a public servant or legislative employee for any investigation that  
34        commenced prior to the date the public servant or legislative employee ceases to be a  
35        public servant or legislative employee.

36        (s) Subpoena Authority. – The Commission may petition the Superior Court of  
37        Wake County for the approval to issue subpoenas and subpoenas duces tecum as  
38        necessary to conduct investigations of alleged violations of this Chapter. The court shall  
39        authorize subpoenas under this subsection when the court determines the subpoenas are  
40        necessary for the enforcement of this Chapter. Subpoenas issued under this subsection  
41        shall be enforceable by the court through contempt powers. Venue shall be with the  
42        Superior Court of Wake County for any person covered by this Chapter, and personal  
43        jurisdiction may be asserted under G.S. 1-75.4.

1       (t) Reports. – The number of complaints referred under this section shall be  
2 reported under G.S. 138A-10(a)(11).

3       (u) Concurrent Jurisdiction. – Nothing in this section shall limit the jurisdiction  
4 of the Committee or the Judicial Standards Commission with regards to legislative or  
5 judicial misconduct, and jurisdiction under this section shall be concurrent with the  
6 jurisdiction of the Committee and the Judicial Standards Commission.

7 **"§ 138A-13. Advisory opinions.**

8       (a) At the request of any public servant or legislative employee, any individual  
9 who is responsible for the supervision or appointment of a person who is a public  
10 servant or legislative employee, legal counsel for any public servant, any ethics liaison  
11 under G.S. 138A-14, or any member of the Commission, the Commission shall render  
12 advisory opinions on specific questions involving the meaning and application of this  
13 Chapter and the public servant's or legislative employee's compliance therewith. The  
14 request shall be in writing, electronic or otherwise, and relate prospectively to real or  
15 reasonably anticipated fact settings or circumstances. The Commission shall issue  
16 advisory opinions having prospective application only. Reliance upon a requested  
17 written advisory opinion on a specific matter shall immunize the public servant or  
18 legislative employee, on that matter, from both of the following:

19           (1) Investigation by the Commission.

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

21       (b) At the request of a legislator, the Commission shall render advisory opinions  
22 on specific questions involving the meaning and application of this Chapter and Part 1  
23 of Article 14 of Chapter 120 of the General Statutes, and the legislator's compliance  
24 therewith. The request shall be in writing, electronic or otherwise, and relate  
25 prospectively to real or reasonably anticipated fact settings or circumstances. The  
26 Commission shall issue advisory opinions having prospective application only. Except  
27 as provided in this subsection, reliance upon a requested written advisory opinion on a  
28 specific matter shall immunize the legislator, on that matter, from both of the following:

29           (1) Investigation by the Committee.

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

31 Any advisory opinion issued to a legislator under this subsection shall immediately be  
32 delivered to the chairs of the Committee. The immunity granted under this subsection  
33 shall not apply after the time the Committee modifies or overturns the advisory opinion  
34 of the Commission in accordance with G.S. 120-104.

35       (c) Staff to the Commission may issue advisory opinions under rules adopted by  
36 the Commission.

37       (d) The Commission shall interpret this Chapter by rules, and these  
38 interpretations are binding on all covered persons and legislative employees upon  
39 publication.

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



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

4       (g) This section shall not apply to judicial officers.

5 **"§ 138A-14. Ethics education program.**

6       (a) The Commission shall develop and implement an ethics education and  
7 awareness program designed to instill in all covered persons, except judicial officers,  
8 and their immediate staffs, and legislative employees, a keen and continuing awareness  
9 of their ethical obligations and a sensitivity to situations that might result in real or  
10 potential conflicts of interest or appearances of conflicts of interest.

11       (b) The Commission shall make basic ethics education and awareness  
12 presentations to all public servants and their immediate staffs, upon their election,  
13 appointment, or hiring, and shall offer periodic refresher presentations as the  
14 Commission deems appropriate. Every public servant and the immediate staff of every  
15 public servant, shall participate in an ethics presentation approved by the Commission  
16 within six months of the person's election, reelection, appointment, or hiring, and shall  
17 attend refresher ethics education presentations at least every two years thereafter in a  
18 manner as the Commission deems appropriate.

19       (c) The Commission shall make basic ethics education and awareness  
20 presentations to all legislators and legislative employees upon their election, reelection,  
21 appointment, or employment and shall offer periodic refresher presentations as the  
22 Commission deems appropriate. Every legislator and legislative employee shall  
23 participate in an ethics presentation approved by the Commission within three months  
24 of the person's election, reelection, appointment, or employment in a manner as the  
25 Commission deems appropriate.

26       (d) Upon request, the Commission shall assist each agency in developing  
27 in-house education programs and procedures necessary or desirable to meet the agency's  
28 particular needs for ethics education, conflict identification, and conflict avoidance.

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

34       (f) The Commission shall publish a newsletter containing summaries of the  
35 Commission's opinions, policies, procedures, and interpretive bulletins as issued from  
36 time to time. The newsletter shall be distributed to all covered persons and legislative  
37 employees. Publication under this subsection may be done electronically.

38       (g) The Commission shall assemble and maintain a collection of relevant State  
39 laws, rules, and regulations that set forth ethical standards applicable to covered  
40 persons. This collection shall be made available electronically as resource material to  
41 public servants, and ethics liaisons, upon request.

42       (h) As used in this section, "immediate staff" means those individuals who report  
43 directly to the public servant.

44       (i) This section shall not apply to judicial officers.

1 **"§ 138A-15. Duties of heads of State agencies.**

2 (a) The head of each State agency, including the chair of each board subject to  
3 this Chapter, shall take an active role in furthering ethics in public service and ensuring  
4 compliance with this Chapter. The head of each State agency and the chair of each  
5 board shall make a conscientious, good-faith effort to assist public servants within the  
6 agency or on the board in monitoring their personal, financial, and professional affairs  
7 to avoid taking any action that results in a conflict of interest or the appearance of a  
8 conflict.

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

18 (c) When an actual or potential conflict of interest is cited by the Commission  
19 under G.S. 138A-24(c) with regard to a public servant sitting on a board, the conflict  
20 shall be recorded in the minutes of the applicable board and duly brought to the  
21 attention of the membership by the board's chair as often as necessary to remind all  
22 members of the conflict and to help ensure compliance with this Chapter.

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

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

34 (f) The head of each State agency, including the chair of each board subject to  
35 this Chapter, shall ensure that legal counsel employed by or assigned to their agency or  
36 board are familiar with the provisions of this Chapter, including the Ethical Standards  
37 for Covered Persons set forth in Article 4 of this Chapter, and are available to advise  
38 public servants on the ethical considerations involved in carrying out their public duties  
39 in the best interest of the public. Legal counsel so engaged may consult with the  
40 Commission, seek the Commission's assistance or advice, and refer public servants and  
41 others to the Commission as appropriate.

42 (g) Taking into consideration the individual autonomy, needs, and circumstances  
43 of each agency and board, the head of each State agency, including the chair of each  
44 board subject to this Chapter, shall consider the need for the development and

1 implementation of in-house educational programs, procedures, or policies tailored to  
2 meet the agency's or board's particular needs for ethics education, conflict identification,  
3 and conflict avoidance. This includes the periodic presentation to all agency heads, their  
4 chief deputies or assistants, other public servants under their supervision or control, and  
5 members of boards, of the basic ethics education and awareness presentation outlined in  
6 G.S. 138A-14 and any other workshop or seminar program the agency head or board  
7 chair deems necessary in implementing this Chapter. Agency heads and board chairs  
8 may request reasonable assistance from the Commission in complying with the  
9 requirements of this subsection.

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

20 **"§§ 138A-16 through 20: [Reserved]"**

21 "Article 3.

22 "Public Disclosure of Economic Interests.

23 **"§ 138A-21. Purpose.**

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

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(31)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 March 15<sup>th</sup> of every year  
3 thereafter, except as otherwise filed under subsection (c) of this section. A prospective  
4 covered person required to file a statement under this Chapter shall not be appointed,  
5 employed, or receive a certificate of election, prior to submission by the Commission of  
6 the Commission's evaluation of the statement in accordance with this Article. The  
7 requirement for an annual filing under this subsection also shall apply to covered  
8 persons whose terms have expired but who continue to serve until the person's  
9 replacement is appointed. Once a statement of economic interest is properly completed  
10 and filed under this Article, the statement of economic interest does not need to be  
11 supplemented or refiled prior to the next due date set forth in this subsection.

12 (b) Notwithstanding subsection (a) of this section, persons hired by, and  
13 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 (c) Notwithstanding subsection (a) of this section, public servants, under  
18 G.S. 138A-3(31)j. and k., who have submitted a statement of economic interest under  
19 subsection (a) of this section, may be hired, appointed, or elected provisionally prior to  
20 submission by the Commission of the Commission's evaluation of the statement in  
21 accordance with this Article, subject to dismissal or removal based on the Commission's  
22 evaluation.

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

40 (e) The State Board of Elections shall provide for notification of the statement of  
41 economic interest requirements of this Article to be given to any candidate filing for  
42 nomination or election to those offices subject to this Article at the time of the filing of  
43 candidacy.

1       (f) Within 10 days of the filing deadline for office of a covered person, the  
2 executive director of the State Board of Elections shall send to the State Ethics  
3 Commission a list of the names and addresses of all candidates who have filed as  
4 candidates for offices as a covered person. A county board of election shall forward any  
5 statements of economic interest filed with the board under this section to the State  
6 Board of Elections. The executive director of the State Board of Elections shall forward  
7 a certified copy of the statements of economic interest to the Commission for evaluation  
8 upon its filing with the State Board of Elections under this section.

9       (g) The Commission shall issue forms to be used for the statement of economic  
10 interest and shall revise the forms from time to time as necessary to carry out the  
11 purposes of this Chapter. Except as otherwise set forth in this section and in  
12 G.S. 138A-15(h), upon notification by the employing entity, the Commission shall  
13 furnish to all other covered persons the appropriate forms needed to comply with this  
14 Article.

15 **"§ 138A-23. Statements of economic interest as public records.**

16 The statements of economic interest filed by prospective public servants under this  
17 Article for appointed or employed positions and written evaluations by the Commission  
18 of these statements are not public records until the prospective public servant is  
19 appointed or employed by the State. All other statements of economic interest and all  
20 other written evaluations by the Commission of those statements are public records.

21 **"§ 138A-24. Contents of statement.**

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

- 26       (1) The name, home address, occupation, employer, and business of the  
27 person.
- 28       (2) A list of each asset and liability included in this subdivision of  
29 whatever nature (including legal, equitable, or beneficial interest) with  
30 a value of at least ten thousand dollars (\$10,000) owned by the filing  
31 person and the filing person's immediate family. This list shall include  
32 the following:
- 33       a. All real estate located in the State owned wholly or in part by  
34 the filing person or the filing person's spouse, including  
35 descriptions adequate to determine the location by city and  
36 county of each parcel.
- 37       b. Real estate that is currently leased or rented to or from the State.
- 38       c. Personal property sold to or bought from the State within the  
39 preceding two years.
- 40       d. Personal property currently leased or rented to or from the  
41 State.
- 42       e. The name of each publicly owned company.
- 43       f. The name of each nonpublicly owned company or business  
44 entity, including interests in partnerships, limited partnerships,

- 1                    joint ventures, limited liability companies, limited liability  
2                    partnerships, and closely held corporations.
- 3                    g. For each company or business entity listed under  
4                    sub-subdivision f. of this subdivision, if known, a list of any  
5                    other companies or business entities in which the company or  
6                    business entity owns securities or equity interests exceeding a  
7                    value of ten thousand dollars (\$10,000).
- 8                    h. For any company or business entity listed under  
9                    sub-subdivisions f. and g. of this subdivision, list any company  
10                   or business entity that has any material business dealings,  
11                   contracts, or other involvement with the State, including a brief  
12                   description of the business activity.
- 13                   i. For a vested trust created, established, or controlled by the  
14                   filing person of which the filing person or the members of the  
15                   filing person's immediate family are the beneficiaries, the name  
16                   and address of the trustee, a description of the trust, and the  
17                   filing person's relationship to the trust.
- 18                   j. A list of all liabilities, excluding indebtedness on the filing  
19                   person's personal residence, by type of creditor and debtor.
- 20                   k. A list of each source (not specific amounts) of income received  
21                   during the previous year by business or industry type, including  
22                   salary or wages, professional fees, honoraria, interest,  
23                   dividends, capital gains, and business income.
- 24                   l. A list of all nonpublicly owned businesses of which the person  
25                   is an officer, employee, director, business associate, or owner.  
26                   The list also shall indicate whether each nonpublicly owned  
27                   business does business with or is regulated by the State, and the  
28                   nature of the business done with the State.
- 29                   m. A list of any public or private enterprise, incorporated or  
30                   otherwise, that is organized or operating in the State primarily  
31                   for religious, charitable, scientific, literary, public health and  
32                   safety, or educational purposes and of which the person or any  
33                   member of the person's immediate family is a director, officer,  
34                   governing board member, employee, or independent contractor  
35                   as of December 31 of the preceding year, including a list of  
36                   which of those nonprofit corporations or organizations do  
37                   business with the State or receive State funds, and a brief  
38                   description of the nature of the business, if known, or which  
39                   with due diligence could reasonably be known.
- 40                   n. An indication of whether the filing person, the filing person's  
41                   employer, a member of the filing person's immediate family, or  
42                   the immediate family member's employer is licensed or  
43                   regulated by, or has a business relationship with, the board or  
44                   employing entity with which the filing person is or will be

- 1                   associated. This sub-subdivision does not apply to a legislator  
2                   or a judicial officer.
- 3                   o.   A list of all gifts, and the sources of the gifts, of a value of more  
4                   than two hundred dollars (\$200.00) received during the 12  
5                   months preceding the reporting period under subsection (d) of  
6                   this section from sources other than the person's extended  
7                   family. The list required by this sub-subdivision shall not apply  
8                   to gifts received by the filing person prior to the time the person  
9                   filed as a candidate for office, as defined in G.S. 138A-22, or  
10                   was appointed or employed as a covered person.
- 11               (3)   If the filing person is a practicing attorney, an indication of whether  
12               the filing person, or the law firm with which the filing person is  
13               affiliated, earned legal fees during the past year in excess of ten  
14               thousand dollars (\$10,000) from any of the following categories of  
15               legal representation:
- 16                   a.   Administrative law.  
17                   b.   Admiralty.  
18                   c.   Corporate law.  
19                   d.   Criminal law.  
20                   e.   Decedents' estates.  
21                   f.   Environmental law.  
22                   g.   Insurance law.  
23                   h.   Labor law.  
24                   i.   Local government law.  
25                   j.   Negligence or other tort litigation.  
26                   k.   Real property law.  
27                   l.   Securities law.  
28                   m.   Taxation.  
29                   n.   Utilities regulation.
- 30               (4)   Except for a filing person in compliance under subdivision (3) of this  
31               subsection, if the filing person is a licensed professional or provides  
32               consulting services, either individually or as a member of a  
33               professional association, a list of categories of business and the nature  
34               of services rendered, for which payment for services were charged or  
35               paid during the past year in excess of ten thousand dollars (\$10,000).
- 36               (5)   A list of the public servant's or the public servant's immediate family's  
37               memberships or other affiliations with, including offices held in,  
38               societies, organizations, or advocacy groups, pertaining to subject  
39               matter areas over which the public servant's agency or board may have  
40               jurisdiction. This subdivision does not apply to a legislator, a judicial  
41               officer, or that person's immediate family.
- 42               (6)   A list of any felony convictions of the filing person.
- 43               (7)   Any other information that is necessary either to carry out the purposes  
44               of this Chapter or to fully disclose any conflict of interest or potential

1 conflict of interest. If the filing person believes a potential for conflict  
2 exists, the filing person has a duty to inquire of the Commission as to  
3 that potential conflict. If the filing person believes a potential for  
4 conflict exists, the filing person has a duty to inquire of the  
5 Commission as to that potential conflict. If a filing person is uncertain  
6 of whether particular information is necessary, then the filing person  
7 shall consult the Commission for guidance.

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

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

23 (d) All information provided in the statement of economic interest shall be  
24 current as of the last day of December of the year preceding the date the statement of  
25 economic interest was due.

26 (e) The Commission shall prepare a written evaluation of each statement of  
27 economic interest relative to conflicts of interest and potential conflicts of interest. The  
28 Commission shall submit the evaluation to all of the following:

- 29 (1) The filing person who submitted the statement.
- 30 (2) The head of the agency in which the filing person serves.
- 31 (3) The Governor for gubernatorial appointees and employees in agencies  
32 under the Governor's authority.
- 33 (4) The Chief Justice for judicial officers and judicial employees.
- 34 (5) The appointing or hiring authority for those public servants not under  
35 the Governor's authority.
- 36 (6) The State Board of Elections for those filing persons who are elected.

37 **"§ 138A-25. Failure to file.**

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



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

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

9        **§ 138A-26. Concealing or failing to disclose material information.**

10        A filing person who knowingly conceals or fails to disclose information that is  
11 required to be disclosed on a statement of economic interest under this Article shall be  
12 guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under  
13 G.S. 138A-45.

14        **§ 138A-27. Penalty for false or misleading information.**

15        A filing person who provides false or misleading information on a statement of  
16 economic interest as required under this Article knowing that the information is false or  
17 misleading is guilty of a Class H felony and shall be subject to disciplinary action under  
18 G.S. 138A-45.

19        **§§ 138A-28 through 30: [Reserved]**

20                                    "Article 4.

21                                    "Ethical Standards for Covered Persons.

22        **§ 138A-31. Use of public position for private gain.**

23        (a) Except as permitted under G.S. 138A-38, a covered person or legislative  
24 employee shall not knowingly use the covered person's or legislative employee's public  
25 position in an official action or legislative action that will result in financial benefit,  
26 direct or indirect, to the covered person or legislative employee, a member of the  
27 covered person's or legislative employee's extended family, or business with which the  
28 covered person or legislative employee is associated. The performance of usual and  
29 customary duties associated with the public position or the advancement of public  
30 policy goals or constituent services, without compensation, shall not constitute the use  
31 of public position for financial benefit. This subsection shall not apply to financial or  
32 other benefits derived by a covered person or legislative employee that the covered  
33 person or legislative employee would enjoy to an extent no greater than that which other  
34 citizens of the State would or could enjoy, or that are so remote, tenuous, insignificant,  
35 or speculative that a reasonable person would conclude under the circumstances that the  
36 covered person's or legislative employee's ability to protect the public interest and  
37 perform the covered person's or legislative employee's official duties would not be  
38 compromised.

39        (b) A covered person shall not mention or permit another person to mention the  
40 covered person's public position in nongovernmental advertising that advances the  
41 private interest of the covered person or others. The prohibition in this subsection shall  
42 not apply to political advertising, news stories, news articles, the inclusion of a covered  
43 person's position in a directory or biographical listing, or the charitable solicitation for a  
44 nonprofit business entity qualifying under 26 U.S.C. § 501(c)(3). Disclosure of a

1 covered person's position to an existing or prospective customer, supplier, or client is  
2 not considered advertising for purposes of this subsection when the disclosure could  
3 reasonably be considered material by the customer, supplier, or client.

4 (c) Notwithstanding G.S. 163-278.16A, no covered person shall use or permit the  
5 use of State funds for any advertisement or public service announcement in a  
6 newspaper, on radio, television, or the Internet, that contains that covered person's  
7 name, picture, or voice, except in case of State or national emergency and only if the  
8 announcement is reasonably necessary to the covered person's official function. This  
9 subsection shall not apply to fund-raising on behalf of and aired on public radio or  
10 public television.

11 **§ 138A-32. Gifts.**

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

19 (b) A covered person may not solicit for a charitable purpose any gift from any  
20 subordinate State employee. This subsection shall not apply to generic written  
21 solicitations to all members of a class of subordinates. Nothing in this subsection shall  
22 prohibit a covered person from serving as the honorary head of the State Employees  
23 Combined Campaign.

24 (c) No public servant, legislator, or legislative employee shall knowingly accept  
25 a gift, directly or indirectly, from a lobbyist or lobbyist principal as defined in  
26 G.S. 120C-100.

27 (d) No public servant shall knowingly accept a gift, directly or indirectly, from a  
28 person whom the public servant knows or has reason to know any of the following:

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

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

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

36 (e) Subsections (c) and (d) of this section shall not apply to any of the following:

37 (1) Food and beverages for immediate consumption in connection with  
38 public events where the food and beverages are generally provided to  
39 other attendees.

40 (2) Lodging, transportation, entertainment and recreation provided in  
41 connection with a public event by a chamber of commerce qualifying  
42 under 26 U.S.C. § 501(c)(6) to which all legislators are invited when  
43 all the things of monetary value are provided within the geographic  
44 area represented by the chamber of commerce.

- 1           (3) Informational materials relevant to the duties of the covered person or  
2 legislative employee.
- 3           (4) Reasonable actual expenses for food, registration, travel, and lodging  
4 of the covered person or legislative employee for a meeting at which  
5 the covered person or legislative employee participates in a panel or  
6 speaking engagement at the meeting related to the covered person's or  
7 legislative employee's duties and when expenses are incurred on the  
8 actual day of participation in the engagement or incurred within a  
9 24-hour time period before or after the engagement. Reasonable travel  
10 expenses necessary to attend the meeting and payments for registration  
11 and lodging for the 24-hour time periods may be paid in advance.  
12 Nothing in this subdivision shall prevent a covered person or  
13 legislative employee from arriving before or staying beyond the  
14 24-hour time period at his or her own expense.
- 15           (5) Entertainment or recreation provided in connection with a public event  
16 sponsored by a charitable organization as defined under G.S. 1-539.11.
- 17           (6) Food, beverages, other items, and entertainment received by a public  
18 servant in connection with a state, national, or regional organization in  
19 which the person's agency is a member or the public servant is a  
20 member or participant by virtue of the person's public position,  
21 provided the food, beverages, other items, or entertainment are made  
22 available to other attendees and the entertainment is of an incidental  
23 character.
- 24           (7) Food, beverages, other items, and entertainment received by a  
25 legislator or legislative employee in connection with a state, regional,  
26 or national legislative organization of which the General Assembly is a  
27 member or the legislator or legislative employee is a member or  
28 participant by virtue of the person's legislative position, provided the  
29 food, beverages, other items, or entertainment are made available to  
30 other attendees and the entertainment is of an incidental character.
- 31           (8) Food, beverages, other items, and entertainment received in connection  
32 with an educational conference or meeting, provided the food,  
33 beverages, other items, or entertainment are made available to other  
34 attendees and the entertainment is incidental to the principal agenda of  
35 the conference or meeting.
- 36           (9) A plaque or similar nonmonetary memento recognizing individual  
37 services in a field or specialty or to a charitable cause.
- 38           (10) Gifts accepted on behalf of the State for the benefit of the State.
- 39           (11) Anything generally made available or distributed to the general public  
40 or all other State employees, by lobbyists or lobbyist's principals.
- 41           (12) Gifts from the covered person's or legislative employee's extended  
42 family, or a member of the same household of the covered person or  
43 legislative employee.

1           (13) Gifts given to a public servant not otherwise subject to an exception  
2 under this subsection, where the gift is food and beverages,  
3 transportation, lodging, entertainment or related expenses associated  
4 with the public business of industry recruitment, promotion of  
5 international trade, or the promotion of travel and tourism, and the  
6 public servant is responsible for conducting the business on behalf of  
7 the State, provided all the following conditions apply:

8           a. The public servant did not solicit the gift, and the public servant  
9 did not accept the gift in exchange for the performance of the  
10 public servant's official duties.

11           b. The public servant reports electronically to the Commission  
12 within 30 days of receipt of the gift or of the date set for  
13 disclosure of public records under G.S. 132-6(d), if applicable.  
14 The report shall include a description and value of the gift and a  
15 description how the gift contributed to the public business of  
16 industry recruitment, promotion of international trade, or the  
17 promotion of travel and tourism. This report shall be posted to  
18 the Commission's public Web site.

19           c. A tangible gift, other than food or beverages, not otherwise  
20 subject to an exception under this subsection shall be turned  
21 over as State property to the Department of Commerce within  
22 30 days of receipt, except as permitted under subsection (f) of  
23 this section.

24           (14) Gifts of personal property valued at less than one hundred dollars  
25 (\$100.00) given to a public servant in the commission of the public  
26 servant's official duties if the gift is given to the public servant as a  
27 personal gift in another country as part of an overseas trade mission,  
28 and the giving and receiving of such personal gifts is considered a  
29 customary protocol in the other country.

30           (f) A prohibited gift that would constitute an expense appropriate for  
31 reimbursement by the public servant's employing entity if it had been incurred by the  
32 public servant personally shall be considered a gift accepted by or donated to the State,  
33 provided the public servant has been approved by the public servant's employing entity  
34 to accept or receive such things of value on behalf of the State. The fact that the  
35 employing entity's reimbursement rate for the type of expense is less than the value of a  
36 particular gift shall not render the gift prohibited.

37           (g) A prohibited gift shall be declined, returned, paid for at fair market value, or  
38 accepted and donated immediately to the State. Perishable food items of reasonable  
39 costs, received as gifts, shall be donated to charity, destroyed, or provided for  
40 consumption among the members and staff of the employing entity or the public.

41           (h) A covered person or legislative employee shall not accept an honorarium  
42 from a source other than the employing entity for conducting any activity where any of  
43 the following apply:

- 1           (1) The employing entity reimburses the covered person or legislative  
2           employee for travel, subsistence, and registration expenses.
- 3           (2) The employing entity's work time or resources are used.
- 4           (3) The activity would be considered official duty or would bear a  
5           reasonably close relationship to the covered person's or legislative  
6           employee's official duties.

7 An outside source may reimburse the employing entity for actual expenses incurred by a  
8 covered person or legislative employee in conducting an activity within the duties of the  
9 covered person or legislative employee, or may pay a fee to the employing entity, in lieu  
10 of an honorarium, for the services of the covered person or legislative employee. An  
11 honorarium permissible under this subsection shall not be considered a gift for purposes  
12 of subsection (c) of this section.

13       (i) Acceptance or solicitation of a gift in compliance with this section without  
14 corrupt intent shall not constitute a violation of the statutes related to bribery or  
15 solicitation of bribery under G.S. 14-217, 14-218, or 120-86.

16 **"§ 138A-33. Other compensation.**

17 A public servant or legislative employee shall not solicit or receive personal  
18 financial gain, other than that received by the public servant or legislative employee  
19 from the State, or with the approval of the employing entity, for acting in the public  
20 servant's or legislative employee's official capacity, or for advice or assistance given in  
21 the course of carrying out the public servant's or legislative employee's duties.

22 **"§ 138A-34. Use of information for private gain.**

23 A public servant or legislative employee shall not use or disclose nonpublic  
24 information gained in the course of, or by reason of, the public servant's or legislative  
25 employee's official responsibilities in a way that would affect a personal financial  
26 interest of the public servant or legislative employee, a member of the public servant's  
27 or legislative employees' extended family, or a person with whom or business with  
28 which the public servant or legislative employee is associated. A public servant or  
29 legislative employee shall not improperly use or disclose any confidential information  
30 not a public record.

31 **"§ 138A-35. Other rules of conduct.**

32       (a) A public servant shall make a due and diligent effort before taking any action,  
33 including voting or participating in discussions with other public servants on a board on  
34 which the public servant also serves, to determine whether the public servant has a  
35 conflict of interest. If the public servant is unable to determine whether or not a conflict  
36 of interest may exist, the public servant has a duty to inquire of the Commission as to  
37 that conflict.

38       (b) A public servant shall continually monitor, evaluate, and manage the public  
39 servant's personal, financial, and professional affairs to ensure the absence of conflicts  
40 of interest.

41       (c) A public servant shall obey all other civil laws, administrative requirements,  
42 and criminal statutes governing conduct of State government applicable to appointees  
43 and employees.

44 **"§ 138A-36. Public servant participation in official actions.**

1       (a) Except as permitted by subsection (d) of this section and under G.S. 138A-38,  
2 no public servant acting in that capacity, authorized to perform an official action  
3 requiring the exercise of discretion, shall knowingly participate in an official action by  
4 the employing entity if the public servant, a member of the public servant's extended  
5 family, or a business with which the public servant is associated, has an economic  
6 interest in, or a reasonably foreseeable benefit from, the matter under consideration,  
7 which would impair the public servant's independence of judgment or from which it  
8 could reasonably be inferred that the interest or benefit would influence the public  
9 servant's participation in the official action. A potential benefit includes a detriment to a  
10 business competitor of (i) the public servant, (ii) a member of the public servant's  
11 extended family, or (iii) a business with which the public servant is associated.

12       (b) A public servant described in subsection (a) of this section shall abstain from  
13 taking any verbal or written action in furtherance of the official action. The public  
14 servant shall submit in writing to the employing entity the reasons for the abstention.  
15 When the employing entity is a board, the abstention shall be recorded in the employing  
16 entity's minutes.

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

29       (d) If a public servant is uncertain whether the relationship described in  
30 subsection (c) of this section justifies removing the public servant from the proceeding  
31 under subsection (c) of this section, the public servant shall disclose the relationship to  
32 the person presiding over the proceeding and seek appropriate guidance. The presiding  
33 officer, in consultation with legal counsel if necessary, shall then determine the extent to  
34 which the public servant will be permitted to participate. If the affected public servant is  
35 the person presiding, then the vice-chair or any other substitute presiding officer shall  
36 make the determination. A good-faith determination under this subsection of the  
37 allowable degree of participation by a public servant is presumptively valid and only  
38 subject to review under G.S. 138A-12 upon a clear and convincing showing of mistake,  
39 fraud, abuse of discretion, or willful disregard of this Chapter.

40 **"§ 138A-37. Legislator participation in official actions.**

41       (a) Except as permitted under G.S. 138A-38, no legislator shall knowingly  
42 participate in a legislative action if the legislator, a member of the legislator's extended  
43 family, the legislator's client, or a business with which the legislator is associated, has  
44 an economic interest in, or may reasonably and foreseeably benefit from the action, if

1 after considering whether the legislator's judgment would be substantially influenced by  
2 the interest and considering the need for the legislator's particular contribution,  
3 including special knowledge of the subject matter to the effective functioning of the  
4 legislature, the legislator concludes that an actual economic interest does exist which  
5 would impair the legislator's independence of judgment. A potential benefit includes a  
6 detriment to a business competitor of (i) the legislator, (ii) a member of the legislator's  
7 extended family, or (iii) a business with which the legislator is associated. The legislator  
8 shall submit in writing to the principal clerk of the house of which the legislator is a  
9 member the reasons for the abstention from participation in the legislative matter.

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

14 **"§ 138A-38. Permitted participation exception.**

15 Notwithstanding G.S. 138A-36 and G.S. 138A-37, a covered person may participate  
16 in an official action or legislative action under any of the following circumstances  
17 except as specifically limited:

- 18 (1) The only interest or reasonably foreseeable benefit that accrues to the  
19 covered person, the covered person's extended family, or business with  
20 which the covered person is associated as a member of a profession,  
21 occupation, or general class, is no greater than that which could  
22 reasonably be foreseen to accrue to all members of that profession,  
23 occupation, or general class.
- 24 (2) Where an official or legislative action affects or would affect the  
25 covered person's compensation and allowances as a covered person.
- 26 (3) Before the covered person participated in the official or legislative  
27 action, the covered person requested and received from the  
28 Commission a written advisory opinion that authorized the  
29 participation. In authorizing the participation under this subsection, the  
30 Commission shall consider the need for the legislator's particular  
31 contribution, such as special knowledge of the subject matter, to the  
32 effective functioning of the General Assembly.
- 33 (4) Before participating in an official action, a public servant made full  
34 written disclosure to the public servant's employing entity which then  
35 made a written determination that the interest or benefit would neither  
36 impair the public servant's independence of judgment nor influence the  
37 public servant's participation in the official action. The employing  
38 entity shall file a copy of that written determination with the  
39 Commission.
- 40 (5) When action is ministerial only and does not require the exercise of  
41 discretion.
- 42 (6) When a public or legislative body records in its minutes that it cannot  
43 obtain a quorum in order to take the official or legislative action  
44 because the covered person is disqualified from acting under this

1 section, the covered person may be counted for purposes of a quorum,  
2 but shall otherwise abstain from taking any further action.

3 (7) When a public servant notifies, in writing, the Commission that the  
4 public servant judicial employee, or someone whom the public servant  
5 appoints to act in the public servant's stead, or both, are the only  
6 individuals having legal authority to take an official action, and the  
7 public servant discloses in writing the circumstances and nature of the  
8 conflict of interest.

9 **"§ 138A-39. Disqualification to serve.**

10 (a) Within 30 days of notice of the Commission's determination that a public  
11 servant has a disqualifying conflict of interest, the public servant shall eliminate the  
12 interest that constitutes the disqualifying conflict of interest or resign from the public  
13 position.

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

16 (c) A decision under this section shall be considered a final decision for  
17 contested case purposes under Article 3 of Chapter 150B of the General Statutes.

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

21 **"§ 138A-40. Employment and supervision of members of covered person's**  
22 **extended family.**

23 A covered person or legislative employee shall not cause the employment,  
24 appointment, promotion, transfer, or advancement of an extended family member of the  
25 covered person to a State office, or a position to which the covered person supervises or  
26 manages, except for positions at the General Assembly as permitted by the Legislative  
27 Services Commission. A public servant or legislative employee shall not supervise,  
28 manage, or participate in an action relating to the discipline of a member of the public  
29 servant's extended family, except as specifically authorized by the public servant's  
30 employing entity.

31 **"§ 138A-41. Other ethics standards.**

32 Nothing in this Chapter shall prevent the Supreme Court, the Legislative Ethics  
33 Committee, the Legislative Services Commission, constitutional officers of the State,  
34 heads of principal departments, the Board of Governors of The University of North  
35 Carolina, State Board of Community Colleges, or other boards from adopting additional  
36 or supplemental ethics standards applicable to that public agency's operations.

37 **"§§ 138A-42 through 44: [Reserved]**

38 "Article 5.

39 "Violation Consequences.

40 **"§ 138A-45. Violation consequences.**

41 (a) Violation of this Chapter by any covered person or legislative employee is  
42 grounds for disciplinary action. Except as specifically provided in Article 3 of this  
43 Chapter and for perjury under G.S. 138A-12 and G.S. 138A-24, no criminal penalty  
44 shall attach for any violation of this Chapter.



1       (b) The willful failure of any public servant serving on a board to comply with  
2 this Chapter is misfeasance, malfeasance, or nonfeasance. In the event of misfeasance,  
3 malfeasance, or nonfeasance, the offending public servant serving on a board is subject  
4 to removal from the board of which the public servant is a member. For appointees of  
5 the Governor and members of the Council of State, the appointing authority may  
6 remove the offending public servant. For appointees of the Speaker of the House of  
7 Representatives or of the General Assembly made by the House of Representatives  
8 upon the recommendation of the Speaker of the House of Representatives, the Speaker  
9 of the House of Representatives may remove the offending public servant. For  
10 appointees of the President Pro Tempore of the Senate or of the General Assembly  
11 made by the Senate upon the recommendation of the President Pro Tempore of the  
12 Senate, the President Pro Tempore of the Senate may remove the offending public  
13 servant. For public servants elected to a board by either the Senate or House of  
14 Representatives, the electing house of the General Assembly shall exercise the  
15 discretion of whether to remove the offending public servant. For all other appointees,  
16 the Commission shall exercise the discretion of whether to remove the offending public  
17 servant.

18       (c) The willful failure of any public servant serving as a State employee to  
19 comply with this Chapter is a violation of a written work order, thereby permitting  
20 disciplinary action as allowed by the law, including termination from employment. For  
21 employees of State departments headed by a member of the Council of State, the  
22 appropriate member of the Council of State shall make all final decisions on the manner  
23 in which the offending public servant shall be disciplined. For public servants who are  
24 judicial employees, the Chief Justice shall make all final decisions on the matter in  
25 which the offending judicial employee shall be disciplined. For legislative employees,  
26 the Legislative Services Commission shall make or refer to the hiring authority all final  
27 decisions on the matter in which the offending legislative employee shall be disciplined.  
28 For public servants appointed or elected for The University of North Carolina or the  
29 Community Colleges System, the appointing or electing authority shall make all final  
30 decisions on the matter in which the offending public servant shall be disciplined. For  
31 all other public servants serving as a State employee, the Governor shall make all final  
32 decisions on the manner in which the offending public servant shall be disciplined.

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

35       (e) The willful failure of a legislator to comply with this Chapter is grounds for  
36 sanctions under G.S. 120-103.1.

37       (f) Nothing in this Chapter affects the power of the State to prosecute any person  
38 for any violation of the criminal law.

39       (g) The State Ethics Commission may seek to enjoin violations of  
40 G.S. 138A-34."

41       **SECTION 2.(a)** G.S. 150B-1(d) is amended by adding a new subdivision to  
42 read:

43       "(14) The State Ethics Commission."

44       **PART II. AMEND LEGISLATIVE ETHICS ACT.**

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

3 **"§ 120-32.6. Certain employment authority.**

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

5           **SECTION 4.** G.S. 120-85, 120-87(b), 120-88, and Part II of Article 14 of  
6 Chapter 120 of the General Statutes are repealed.

7           **SECTION 5.** Part 1 of Article 14 of Chapter 120 is amended by adding a  
8 new section to read:

9 **"§ 120-85.1. Definitions.**

10           As used in this Article, the following terms mean:

11           (1) Business with which associated. – As defined in G.S. 138A-3.

12           (2) Confidential information. – As defined in G.S. 138A-3.

13           (3) Economic interest. – As defined in G.S. 138A-3.

14           (4) Immediate family. – As defined in G.S. 138A-3.

15           (5) Legislator. – A member or presiding officer of the General Assembly.

16           (6) Nonprofit corporation or organization with which associated. – As  
17 defined in G.S. 138A-3.

18           (7) Vested trust. – As defined in G.S. 138A-3."

19           **SECTION 6.** G.S. 120-86 reads as rewritten:

20 **"§ 120-86. Bribery, etc.**

21           (a) No person shall offer or give to a legislator or a member of a legislator's  
22 immediate ~~household,~~family, or to a business with which the legislator is associated,  
23 and no legislator shall solicit or receive, anything of monetary value, including a gift,  
24 favor or service or a promise of future employment, based on any understanding that the  
25 legislator's vote, official actions or judgment would be influenced thereby, or where it  
26 could reasonably be inferred that the thing of value would influence the legislator in the  
27 discharge of the legislator's duties.

28           (b) It shall be unlawful for the partner, client, customer, or employer of a  
29 legislator or the agent of that partner, client, customer, or employer, directly or  
30 indirectly, to threaten economically that legislator with the intent to influence the  
31 legislator in the discharge of the legislator's duties.

32           (b1) It shall be unlawful for any person, directly or indirectly, to threaten  
33 economically another person in order to compel the threatened person to attempt to  
34 influence a legislator in the discharge of the legislator's duties.

35           (c) It shall be unethical for a legislator to contact the partner, client, customer, or  
36 employer of another legislator if the purpose of the contact is to cause the partner,  
37 client, customer, or employer, directly or indirectly, to threaten economically that  
38 legislator with the intent to influence that legislator in the discharge of the legislator's  
39 duties.

40           ~~(d) For the purposes of this section, the term "legislator" also includes any person~~  
41 ~~who has been elected or appointed to the General Assembly but who has not yet taken~~  
42 ~~the oath of office.~~

43           (e) Violation of subsection (a), (b), or (b1) is a Class F felony. Violation of  
44 subsection (c) is not a crime but is punishable under ~~G.S. 120-103.~~G.S. 120-103.1."

1           **SECTION 7.** G.S. 120-99(a) reads as rewritten:

2           "(a) The Legislative Ethics Committee is created ~~to~~ and shall consist of ~~ten~~ twelve  
3 members, ~~five~~ six Senators appointed by the President Pro Tempore of the Senate,  
4 among them – ~~two~~ three from a list of ~~four~~ six submitted by the Majority Leader and  
5 ~~two~~ three from a list of ~~four~~ six submitted by the Minority Leader, and ~~five~~ six members  
6 of the House of Representatives appointed by the Speaker of the House, among them –  
7 ~~two~~ three from a list of ~~four~~ six submitted by the Majority Leader and ~~two~~ three from a  
8 list of ~~four~~ six submitted by the Minority Leader."

9           **SECTION 8.** G.S. 120-99(c) is repealed.

10          **SECTION 9.** G.S. 120-101 reads as rewritten:

11       "**§ 120-101. Quorum; expenses of members.**

12       (a) ~~Six~~ Eight members constitute a quorum of the Committee. A vacancy on the  
13 Committee does not impair the right of the remaining members to exercise all the  
14 powers of the Committee.

15       (b) The members of the Committee, while serving on the business of the  
16 Committee, are performing legislative duties and are entitled to the subsistence and  
17 travel allowances to which members of the General Assembly are entitled when  
18 performing legislative duties."

19          **SECTION 10.** G.S. 120-102 reads as rewritten:

20       "**§ 120-102. Powers and duties of Committee.**

21       (a) In addition to the other powers and duties specified in this Article, the  
22 Committee ~~has the following powers and duties~~ may:

- 23           (1) ~~To prescribe forms for the statements of economic interest and other~~  
24           ~~reports required by this Article, and to furnish these forms to persons~~  
25           ~~who are required to file statements or reports.~~  
26           (2) ~~To receive and file any information voluntarily supplied that exceeds~~  
27           ~~the requirements of this Article.~~  
28           (3) ~~To organize in a reasonable manner statements and reports filed with it~~  
29           ~~and to make these statements and reports available for public~~  
30           ~~inspection and copying during regular office hours. Copying facilities~~  
31           ~~shall be made available at a charge not to exceed actual cost.~~  
32           (4) ~~To preserve statements and reports filed with the Committee for a~~  
33           ~~period of 10 years from the date of receipt. At the end of the 10 year~~  
34           ~~period, these documents shall be destroyed.~~  
35           (5) ~~To prepare a list of ethical principles and guidelines to be used by each~~  
36           ~~legislator in determining his role in supporting or opposing specific~~  
37           ~~types of legislation, and to advise each General Assembly committee~~  
38           ~~of specific danger areas where conflict of interest may exist and to~~  
39           ~~suggest rules of conduct that should be adhered to by committee~~  
40           ~~members in order to avoid conflict.~~ Prepare a list of ethical principles  
41           and guidelines to be used by legislators and legislative employees to  
42           identify potential conflicts of interest and prohibited behavior, and to  
43           suggest rules of conduct that shall be adhered to by legislators and  
44           legislative employees.

- 1           (5a) Advise each General Assembly committee of specific danger areas  
2           where conflicts of interest may exist and to suggest rules of conduct  
3           that should be adhered to by committee members in order to avoid  
4           conflict.
- 5           (6) ~~To advise~~Advise General Assembly members or render written  
6           opinions if so requested by the member about questions of ethics or  
7           possible points of conflict and suggested standards of conduct of  
8           members upon ethical points raised.
- 9           (6a) Review, modify or overrule advisory opinions issued to legislators by  
10          the State Ethics Commission under G.S. 138A-13.
- 11          (7) ~~To propose~~Propose rules of legislative ethics and conduct. The rules,  
12          when adopted by the House of Representatives and the Senate, shall be  
13          the standards adopted for that term.
- 14          (8) Upon receipt of information that a legislator owes money to the State  
15          and is delinquent in making repayment of such obligation, ~~to~~  
16          investigate and dispose of the matter according to the terms of this  
17          Article.
- 18          (9) Investigate alleged violations in accordance with G.S. 120-103.1 and  
19          hire separate legal counsel, through the Legislative Services  
20          Commission, for these purposes.
- 21          (10) Adopt rules to implement this Article.
- 22          (11) Perform other duties as may be necessary to accomplish the purposes  
23          of this Article.

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

32                 **SECTION 11.** G.S. 120-103 is repealed.

33                 **SECTION 12.** Part III of Article 14 of Chapter 120 is amended by adding a  
34          new section to read:

35          "**§ 120-103.1. Investigations by the Committee.**

36                 (a) Institution of Proceedings. – On its own motion, or upon receipt of a referral  
37          of a complaint from the State Ethics Commission under Chapter 138A of the General  
38          Statutes, the Committee shall conduct an investigation into any of the following:

- 39                 (1) The application or alleged violation of Chapter 138A of the General  
40                 Statutes and Part 1 of this Article.
- 41                 (2) The application or alleged violation of rules adopted in accordance  
42                 with G.S. 120-102.

- 1           (3)    The alleged violation of the criminal law by a legislator while acting in  
2           the legislator's official capacity as a participant in the lawmaking  
3           process.
- 4       (b)    Complaint. –
- 5           (1)    The Committee may, in its sole discretion, request additional  
6           information to be provided by the complainant within a specified  
7           period of time of no less than seven business days.
- 8           (2)    The Committee may decline to accept or further investigate a  
9           complaint if it determines that any of the following apply:
- 10           a.    The complaint is frivolous or brought in bad faith.
- 11           b.    The individuals and conduct complained of have already been  
12           the subject of a prior complaint.
- 13           c.    The conduct complained of is primarily a matter more  
14           appropriately and adequately addressed and handled by other  
15           federal, State, or local agencies or authorities, including law  
16           enforcement authorities. If other agencies or authorities are  
17           conducting an investigation of the same actions or conduct  
18           involved in a complaint filed under this section, the Committee  
19           may stay its complaint investigation pending final resolution of  
20           the other investigation.
- 21           (3)    The Committee shall send a notice of the initiation of an investigation  
22           under this section to the legislator who is the subject of the complaint  
23           within 10 days of the date of the decision to initiate the investigation.
- 24       (c)    Investigation of Complaints by the Committee. – The Committee shall  
25       investigate all complaints properly before the Committee in a timely manner. Within 60  
26       days of the referral of the complaint with the Committee, the Committee shall refer the  
27       complaint for hearing in accordance with subsection (i) of this section, initiate an  
28       investigation of a complaint or dismiss the complaint, or the complaint shall then  
29       become a public record. In determining whether there is reason to believe that a  
30       violation has or may have occurred, a member of the Committee can take general notice  
31       of available information even if not formally provided to the Committee in the form of a  
32       complaint. The Committee may utilize the services of a hired investigator when  
33       conducting investigations.
- 34       (d)    On a referral from the State Ethics Commission, the Committee may:
- 35           (1)    Make recommendations to the house in which the legislator who is the  
36           subject of the complaint is a member without further investigation.
- 37           (2)    Conduct further investigations and hearings under this section.
- 38       (e)    Investigation by the Committee of Matters Other Than Complaints. – The  
39       Committee may investigate matters other than complaints properly before the  
40       Committee under subsection (a) of this section. For any investigation initiated under this  
41       subsection, the Committee may take any action it deems necessary or appropriate to  
42       further compliance with this Article, including the initiation of a complaint, the issuance  
43       of an advisory opinion under G.S. 120-104, or referral to appropriate law enforcement  
44       or other authorities pursuant to subsection (j)(2) of this section.

1       (f) Legislator Cooperation with Investigation. – Legislators shall promptly and  
2 fully cooperate with the Committee in any Committee-related investigation. Failure to  
3 cooperate fully with the Committee in any investigation shall be grounds for sanctions  
4 under this section.

5       (g) Dismissal of Complaint after Preliminary Inquiry. – If the Committee  
6 determines at the end of its preliminary inquiry that the complaint does not allege facts  
7 sufficient to constitute a violation of matters over which the Committee has jurisdiction  
8 as set forth in subsection (a) of this section, the Committee shall dismiss the complaint  
9 and provide written notice of the dismissal to the individual who filed the complaint and  
10 the legislator against whom the complaint was filed.

11       (h) Notice. – If at the end of its preliminary inquiry the Committee determines to  
12 proceed with further investigation into the conduct of a legislator, the Committee shall  
13 provide written notice to the individual who filed the complaint and the legislator as to  
14 the fact of the investigation and the charges against the legislator. The legislator shall be  
15 given an opportunity to file a written response with the Committee.

16       (i) Hearing. –

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

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

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

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

27               b. The hearing shall be held in closed session unless the legislator  
28 requests that the hearing be held in open session. In any event,  
29 the deliberations by the Committee on a complaint may be held  
30 in closed session.

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

34       (j) Disposition of Investigations. – Except as permitted under subsection (g) of  
35 this section, after the hearing the Committee shall dispose of a matter before the  
36 Committee under this section, in any of the following ways:

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

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

43               a. Issue a public or private admonishment to the legislator.

1           b. Refer the matter to the Attorney General for investigation and  
2           referral to the district attorney for possible prosecution or the  
3           appropriate house for appropriate action, or both, if the  
4           Committee finds substantial evidence of a violation of a  
5           criminal statute.

6           c. Refer the matter to the appropriate house for appropriate action,  
7           which may include censure and expulsion, if the Committee  
8           finds substantial evidence of a violation of this Article or other  
9           unethical activities.

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

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

21          (l) Confidentiality. – Except as provided under subsection (c) of this section, the  
22          complaint, response, records and findings of the Committee shall be confidential and  
23          not matters of public record, except when the legislator under inquiry requests in writing  
24          that the complaint, response, records and findings be made public prior to the time the  
25          Committee recommends sanctions. At such time as the Committee recommends  
26          sanctions to the house of which the legislator is a member, the complaint, response and  
27          Committee's report to the house shall be made public.

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

31          **SECTION 13.** G.S 120-104 reads as rewritten:

32          **"§ 120-104. Advisory opinions.**

33          (a) At the request of any member of the General Assembly, the Committee shall  
34          render advisory opinions on specific questions involving legislative ethics. ~~These~~  
35          ~~advisory opinions, edited as necessary to protect the identity of the legislator requesting~~  
36          ~~the opinion, shall be published periodically by the Committee.~~

37          (b) The Committee shall accept and review advisory opinions issued to  
38          legislators by the State Ethics Commission under G.S. 138A-13. The Committee may  
39          modify or overrule the advisory opinions issued to legislators by the State Ethics  
40          Commission and the opinion of the Committee shall control. The Committee shall  
41          provide the Commission with the advisory opinion modified or overruled by the  
42          Committee, and the Commission shall publish the Committee's opinion under  
43          G.S. 138A-13(e). The failure of the Committee to modify or overrule an advisory  
44          opinion issued to a legislator by the State Ethics Commission shall constitute ratification

1 of the State Ethics Commission's advisory opinion for purposes of the immunity granted  
2 under G.S. 138A-13(a).

3 (c) Staff to the Committee may issue informal, nonbinding advisory opinions  
4 under rules adopted by the Committee.

5 (d) The Committee may interpret Chapter 138A of the General Statutes as it  
6 applies to legislators by rules, and these interpretations are binding on all legislators  
7 upon publication.

8 (e) The Committee shall publish its advisory opinions issued separately from the  
9 State Ethics Commission at least once a year. These advisory opinions shall be edited  
10 for publication purposes as necessary to protect the identities of the individuals  
11 requesting opinions.

12 (f) Except as provided under subsection (e) of this section, requests for advisory  
13 opinions, advisory opinions issued under this section, and advisory opinions received  
14 from the State Ethics Commission, are confidential and not matters of public record."

15 **SECTION 14.** G.S. 120-105 reads as rewritten:

16 **"§ 120-105. Continuing study of ethical questions.**

17 The Committee shall conduct continuing studies of questions of legislative ethics  
18 including revisions and improvements of this Article as well as ~~sections to cover the~~  
19 ~~administrative branch of government and~~ Chapter 138A of the General Statutes. The  
20 Committee shall report to the General Assembly from time to time recommendations for  
21 amendments to the statutes and legislative rules which the Committee deems desirable  
22 in promoting, maintaining and effectuating high standards of ethics in the legislative  
23 branch of State government."

24 **SECTION 15.** G.S. 143B-350 reads as rewritten:

25 **"§ 143B-350. Board of Transportation – organization; powers and duties, etc.**

26 ...

27 (i) Disclosure of Contributions. – Any person serving on the Board of  
28 Transportation or as Secretary of Transportation on December 1, 1998, shall disclose on  
29 that date any contributions the person or the person's immediate family made to the  
30 political campaign of the appointing Governor in the two years preceding December 1,  
31 1998. A person appointed to the Board of Transportation and a person appointed as  
32 Secretary of Transportation after December 1, 1998, shall disclose at the time the  
33 appointment of the person is officially made public any contributions the person or the  
34 person's immediate family made to the political campaign of the appointing Governor in  
35 the two years preceding the date of appointment. The term "immediate family", as used  
36 in this subsection, means a person's spouse, children, parents, brothers, and sisters.  
37 Disclosure forms shall be filed with the ~~Governor or the Governor's designee and in a~~  
38 ~~manner as prescribed by the Governor.~~ State Ethics Commission as a supplemental  
39 filing to the Statement of Economic Interest filed under Article 3 of Chapter 138A.  
40 Disclosure forms shall not be a public record under the provisions of Chapter 132 of the  
41 General Statutes until such time as the appointment of the person filing the statement is  
42 officially made public.

43 (j) Disclosure of Campaign Fund-Raising. – A person appointed to the Board of  
44 Transportation on or after January 1, 2001, and a person appointed as Secretary of



1 Transportation on or after January 1, 2001, shall disclose at the time the appointment of  
2 the person is officially made public any contributions the person personally acquired in  
3 the two years prior to appointment for: any political campaign for a statewide or  
4 legislative elected office in North Carolina; any political party executive committee or  
5 political committee acting on behalf of a candidate for statewide or legislative office.  
6 Disclosure forms shall be filed with the ~~Governor or the Governor's designee and in a~~  
7 ~~manner as prescribed by the Governor.~~ State Ethics Commission as a supplemental filing  
8 to the Statement of Economic Interest filed under Article 3 of Chapter 138A. Disclosure  
9 forms shall not be a public record under the provisions of Chapter 132 of the General  
10 Statutes until such time as the appointment of the person filing the statement is officially  
11 made public.

12 (k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics  
13 applicable to members of the Board, including the Secretary. Any code of ethics  
14 adopted by the Board shall be supplemental to ~~any other code of ethics that may be~~  
15 ~~applicable to members of the Board or to the Secretary.~~ the provisions of Chapter 138A  
16 of the General Statutes. A code of ethics adopted pursuant to this subsection ~~shall~~ shall  
17 include

18 (1) ~~Include~~ a prohibition against a member taking action as a Board  
19 member when a conflict of interest, or the appearance of a conflict of  
20 interest, exists. The ethics policy adopted pursuant to this subsection  
21 shall specify that a conflict of interest exists when the use of the Board  
22 member's position, or any official action taken by the Board member,  
23 would result in financial benefit, direct or indirect, to the Board  
24 member, a member of the Board member's immediate family, or an  
25 individual with whom, or business with which, the Board member is  
26 associated. The ethics policy adopted pursuant to this subsection shall  
27 specify that an appearance of a conflict of interest exists when a  
28 reasonable person would conclude from the circumstances that the  
29 Board member's ability to protect the public interest, or perform public  
30 duties, would be compromised by personal interest, even in the  
31 absence of an actual conflict of interest. The performance of usual and  
32 customary duties associated with the public position or the  
33 advancement of public policy goals or constituent services, without  
34 compensation, shall not constitute the use of the Board member's  
35 position for financial benefit. The conflict of interest provision of the  
36 ethics policy adopted pursuant to this subsection shall not apply to  
37 financial or other benefits derived by a Board member that the Board  
38 member would enjoy to an extent no greater than that which other  
39 citizens of the State would or could enjoy.

40 (2) ~~Require the filing of a statement of economic interest. The statement~~  
41 ~~of economic interest shall include a listing of the appointee's legal,~~  
42 ~~equitable, or beneficial interest in real estate holdings in the State, and~~  
43 ~~a statement of the appointee's financial interest in any business related~~  
44 ~~to the State's transportation system. The statement of economic interest~~

shall be filed with the Governor, or the Governor's designee, and in a manner as prescribed by the Governor.

(3) ~~Require the filing of a statement of association. The statement of association shall include a statement of the appointee's membership or other affiliation with, including offices held, in societies, organizations, or advocacy groups pertaining to the State's transportation system. The statement of association shall be filed with the Governor, or the Governor's designee, and in a manner as prescribed by the Governor.~~

~~Board members and the Secretary serving on December 1, 1998, shall file the statement of economic interest and statement of association on that date. Board members and the Secretary appointed after December 1, 1998, shall file the statement of economic interest and statement of association at the time the appointment of the person is officially made public. The statement of economic interest and the statement of association shall not be a public record under the provisions of Chapter 132 of the General Statutes until the appointment of the person filing the statement is officially made public.~~

(l) ~~Additional Requirements for Disclosure Statements. – All disclosure statements required under subsections (i), (j), and (k) of this section must be sworn written statements.~~

(m) ~~Ethics and Board Duties Education. – The Board shall institute by January 1, 1999, and conduct annually an education program on ethics and on the duties and responsibilities of Board members. The training session shall be comprehensive in nature-nature, conducted in conjunction with the State Ethics Commission, and shall include input from the Institute of Government, the North Carolina Board of Ethics, the Attorney General's Office, the University of North Carolina Highway Safety Research Center, and senior career employees of the various divisions of the Department. This program shall include an initial orientation for new members of the Board and continuing education programs for Board members at least once each year.~~

...."

**PART III. AMEND LOBBYING LAWS.**

**SECTION 16.(a)** G.S. 120-47.7B, as enacted by S.L. 2005-456, is effective when this act becomes law.

**SECTION 16.(b)** G.S. 120-47.7B is repealed effective January 1, 2007.

**SECTION 17.** Article 9A of Chapter 120 of the General Statutes is repealed.

**SECTION 18.** The General Statutes are amended by adding a new Chapter to read:

**"Chapter 120C.**

**"Lobbying.**

**"Article 1.**

**"General Provisions.**

**"§ 120C-100. Definitions.**

(a) As used in this Article, the following terms mean:

- 1           (1) Designated individual. – A legislator, legislative employee, or public  
2 servant.
- 3           (2) Executive action. – The preparation, research, drafting, development,  
4 consideration, modification, amendment, adoption, approval, tabling,  
5 postponement, defeat, or rejection of a policy, guideline, request for  
6 proposal, procedure, regulation, or rule by a public servant purporting  
7 to act in an official capacity. This term does not include any of the  
8 following:
- 9           a. Present, prior, or possible proceedings of a contested case  
10 hearing under Chapter 150B of the General Statutes, of a  
11 judicial nature, or of a quasi-judicial nature.
- 12           b. A public servant's communication with a person or another  
13 person on that person's behalf with respect to any of the  
14 following:
- 15               1. Applying for a permit, license, determination of  
16 eligibility, or certification.
- 17               2. Making an inquiry about or asserting a benefit, claim,  
18 right, obligation, duty, entitlement, payment, or penalty.
- 19               3. Making an inquiry about or responding to a request for  
20 proposal made under Chapter 143 of the General  
21 Statutes.
- 22           c. Internal administrative functions, including those functions  
23 exempted from the definition of 'rule' in G.S. 150B-2(8a).
- 24           d. Ministerial functions.
- 25           e. A public servant's communication with a person or another  
26 person on that person's behalf with respect to public comments  
27 made at an open meeting or submitted as written comment, on a  
28 proposed executive action in response to a request for public  
29 comment, provided identity of the person on whose behalf the  
30 comments are made is disclosed as part of the public  
31 participation and no reportable expenditure is made.
- 32           (3) In session. – One of the following:
- 33           a. The General Assembly is in extra session from the date the  
34 General Assembly convenes until the General Assembly:
- 35               1. Adjourns sine die.
- 36               2. Recesses or adjourns for more than 10 days.
- 37           b. The General Assembly is in regular session from the date set by  
38 law or resolution that the General Assembly convenes until the  
39 General Assembly:
- 40               1. Adjourns sine die.
- 41               2. Recesses or adjourns for more than 10 days.
- 42           (4) Legislative action. – The preparation, research, drafting, introduction,  
43 consideration, modification, amendment, approval, passage,  
44 enactment, tabling, postponement, defeat, or rejection of a bill,

1 resolution, amendment, motion, report, nomination, appointment, or  
2 other matter, whether or not the matter is identified by an official title,  
3 general title, or other specific reference, by a legislator or legislative  
4 employee acting or purporting to act in an official capacity. It also  
5 includes the consideration of any bill by the Governor for the  
6 Governor's approval or veto under Article II, Section 22(1) of the  
7 Constitution or for the Governor to allow the bill to become law under  
8 Article II, Section 22(7) of the Constitution.

9 (5) Legislative employee. – Employees and officers of the General  
10 Assembly.

11 (6) Liaison personnel. – Any State employee or officer whose principal  
12 duties, in practice or as set forth in that person's job description,  
13 include lobbying designated individuals.

14 (7) Legislator. – As defined in G.S. 138A-3.

15 (8) Lobbying. – Any of the following:

16 a. Influencing or attempting to influence legislative or executive  
17 action, or both, through direct communication or activities with  
18 a designated individual or that person's immediate family.

19 b. Developing goodwill through communications or activities,  
20 including the building of relationships, with a designated  
21 individual or that person's immediate family with the intention  
22 of influencing current or future legislative or executive action,  
23 or both.

24 The term "lobbying" does not include communications, activities, or  
25 monies spent as part of a business, civic, religious, fraternal, personal,  
26 or commercial relationship which is not connected to legislative or  
27 executive action, or both.

28 (9) Lobbyist. – An individual who engages in lobbying and meets any of  
29 the following criteria:

30 a. Is employed by a person for the intended purpose of lobbying.

31 b. Is employed by a person and a significant part of that  
32 individual's duties include lobbying. For purposes of this  
33 sub-subdivision, a significant part of an individual's duties is  
34 deemed to be any portion of more than five calendar days in a  
35 calendar year.

36 c. Represents another person, but is not directly employed by that  
37 person, and receives compensation for the purpose of lobbying.  
38 For the purposes of this sub-subdivision, the term compensation  
39 shall not include reimbursement of actual travel and  
40 subsistence.

41 d. Contracts for economic consideration for the purpose of  
42 lobbying.

1           The term "lobbyist" shall not include individuals who are  
2           specifically exempted from this Chapter by G.S. 120C-700 or  
3           registered as liaison personnel under Article 5 of this Chapter.

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

12           (11) News medium. – Media providers whose sole purpose is to report  
13           events and that does not involve research or advocacy.

14           (12) Reportable expenditure. – Any of the following that directly or  
15           indirectly is made to, at the request of, for the benefit of, or on the  
16           behalf of a designated individual or that individual's immediate family  
17           member:

18           a. Any advance, contribution, conveyance, deposit, distribution,  
19           payment, gift, retainer, fee, salary, honorarium, reimbursement,  
20           loan, pledge or thing of value greater than ten dollars (\$10.00)  
21           per designated individual per single calendar day.

22           b. A contract, agreement, promise or other obligation whether or  
23           not legally enforceable.

24           (13) Solicitation of others. – The petition or request of the general public to  
25           influence legislative or executive action, or both by a lobbyist,  
26           lobbyists' principal or other person, except communication between  
27           the lobbyist, lobbyist's principal or other person and the lobbyist's  
28           principal's or other person's stockholders, employees, board members,  
29           officers, members, subscribers, or other persons who have  
30           affirmatively assented to receive the lobbyist's principal's or other  
31           person's regular publications or notices.

32           (b) Except as otherwise defined in this section, the definitions in Article 1 of  
33           Chapter 138A of the General Statutes apply in this Chapter.

34           "**§ 120C-101. Rules and forms.**

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

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

1 that commitment or decision to the State or local government agency involved with the  
2 project.

3 **"§ 120C-102. Advisory opinions.**

4 (a) At the request of any person affected by this Chapter, the Secretary of State  
5 shall render advisory opinions on specific questions involving the meaning and  
6 application of this Chapter and that person's compliance therewith. The request shall be  
7 in writing and relate to real or reasonably anticipated fact settings or circumstances. The  
8 Secretary of State shall issue advisory opinions having prospective application only.  
9 Reliance upon a requested written advisory opinion on a specific matter shall immunize  
10 the designated individual, lobbyist, lobbyist's principal, or other person requesting that  
11 written advisory opinion, from both of the following:

12 (1) Investigation by the Secretary of State.

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

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

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

18 (d) Except as provided under subsection (c) of this section, requests for advisory  
19 opinions and advisory opinions issued pursuant to this section are confidential and not  
20 matters of public record.

21 **"§ 120C-103. Lobbying education program.**

22 (a) The Secretary of State shall develop and implement a lobbying education and  
23 awareness program designed to instill in all designated individuals, lobbyists, and  
24 lobbyists' principals a keen and continuing awareness of their obligations and sensitivity  
25 to situations that might result in real or potential violation of this Chapter or other  
26 related laws. The Secretary of State shall make basic lobbying education and awareness  
27 presentations to all designated individuals upon their election, appointment, or hiring  
28 and shall offer periodic refresher presentations as the Secretary of State deems  
29 appropriate. Every designated individual shall participate in a lobbying presentation  
30 approved by the Secretary of State within six months of the person's election,  
31 appointment, or hiring and shall attend refresher lobbying education presentations at  
32 least every two years thereafter in a manner the Secretary of State deems appropriate.  
33 Upon request, the Secretary of State shall assist each agency in developing in-house  
34 education programs and procedures necessary or desirable to meet the agency's  
35 particular needs for lobbying education.

36 (b) The Secretary of State shall publish a newsletter containing summaries of the  
37 Secretary's opinions, policies, procedures, and interpretive bulletins as issued from time  
38 to time, but no less than once per year. The newsletter shall be distributed to all  
39 designated individuals, lobbyists, and lobbyists' principals. Publication under this  
40 subsection may be done electronically.

41 (c) The Secretary of State shall assemble and maintain a collection of relevant  
42 State laws, rules, and regulations that set forth lobbying standards applicable to  
43 designated individuals. The collection of laws, rules, and regulations shall be made

1 available electronically as resource material to designated individuals, lobbyists, and  
2 lobbyists' principals upon request.

3 **"§ 120C-104. Chapter applies to candidates for certain offices.**

4 For purposes of this Chapter, the term 'legislator' as defined in G.S. 120C-100(7) and  
5 the term 'public servant' as defined in G.S. 138A-3(31)a. shall include a person having  
6 filed a notice of candidacy for such office under G.S. 163-106 or Article 11 of Chapter  
7 163 of the General Statutes.

8 "Article 2.

9 "Registration.

10 **"§ 120C-200. Lobbyist registration procedure.**

11 (a) A lobbyist shall file a separate registration statement for each principal the  
12 lobbyist represents with the Secretary of State before engaging in any lobbying. It shall  
13 be unlawful for a person to lobby without registering within one business day of  
14 engaging in any lobbying as defined in G.S. 120C-100(8) unless exempted by this  
15 Chapter.

16 (b) The form of the registration shall be prescribed by the Secretary of State and  
17 shall include the registrant's full name, firm, complete address and telephone number;  
18 the registrant's place of business; the full name, complete address and telephone number  
19 of each principal the lobbyist represents; and a general description of the matters on  
20 which the registrant expects to act as a lobbyist.

21 (c) Each lobbyist shall file an amended registration form with the Secretary of  
22 State no later than 10 business days after any change in the information supplied in the  
23 lobbyist's last registration under subsection (b) of this section. Each supplementary  
24 registration shall include a complete statement of the information that has changed.

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

29 (e) Each lobbyist shall identify himself or herself as a lobbyist prior to engaging  
30 in lobbying communications or activities with a designated individual. The lobbyist  
31 shall also disclose the identity of the lobbyist's principal connected to that lobbying  
32 communication or activity.

33 **"§ 120C-201. Lobbyist's registration fee.**

34 (a) Except as provided for in subsection (b) of this section, a fee of one hundred  
35 dollars (\$100.00) is due and payable to the Secretary of State at the time of each  
36 lobbyist registration. Fees so collected shall be deposited in the General Fund of the  
37 State. The Secretary of State shall allow fees required under this section to be paid  
38 electronically but shall not require the fees to be paid electronically.

39 (b) The Secretary of State shall adopt rules providing for a waiver or reduction of  
40 the fees required by this section for lobbyists registering to represent persons who have  
41 been granted nonprofit status under 26 U.S.C. § 501(c)(3).

42 **"§ 120C-202-205: Reserved for future codification.**

43 **"§ 120C-206. Lobbyist's principal's authorization.**

1       (a) A written authorization signed by the lobbyist's principal authorizing the  
2 lobbyist to represent the principal shall be filed with the Secretary of State within 10  
3 business days after the lobbyist's registration.

4       (b) The form of the authorization shall be prescribed by the Secretary of State  
5 and shall include the lobbyist's principal's full name, complete address and telephone  
6 number, name and title of the official signing for the lobbyist's principal, and the name  
7 of each lobbyist registered to represent that principal.

8       (c) An amended authorization shall be filed with the Secretary of State no later  
9 than 10 business days after any change in the information on the principal's  
10 authorization. Each supplementary authorization shall include a complete statement of  
11 the information that has changed.

12 **"§ 120C-207. Lobbyist's principal's fees.**

13       (a) Except as provided for in subsection (b) of this section, a fee of one hundred  
14 dollars (\$100.00) is due and payable to the Secretary of State at the time the principal's  
15 first authorization statement is filed each calendar year for a lobbyist. Fees so collected  
16 shall be deposited in the General Fund of the State. The Secretary of State shall allow  
17 fees required under this section to be paid electronically but shall not require the fees to  
18 be paid electronically.

19       (b) The Secretary of State shall adopt rules providing for a waiver or reduction of  
20 the fees required by this section for lobbyist's principals that have been granted  
21 nonprofit status under 26 U.S.C. § 501(c)(3).

22 **"§ 120C-208-210: Reserved for future codification.**

23 **"§ 120C-215. Other persons required to register.**

24       (a) A person incurring an expense for solicitation of others as defined in  
25 G.S. 120C-100(13) shall register and report under this Chapter when the expense is one  
26 of the following:

- 27           (1) Media costs exceeding a total of one thousand dollars (\$1000) during  
28 any 90-day period.
- 29           (2) Mailing costs exceeding a total of five hundred dollars (\$500.00)  
30 during any 90-day period.
- 31           (3) Conferences, meetings, or other similar events exceeding a total of five  
32 hundred dollars (\$500.00) during any 90-day period.

33       (b) A person required to register and report under this section shall be referred to  
34 as a 'solicitor' for purposes of this Chapter.

35 **"§ 120C-216-219: Reserved for future codification.**

36 **"§ 120C-220. Publication and availability of registrations.**

37       (a) The Secretary of State shall make available as soon as practicable the  
38 registrations of the lobbyists in an electronic, searchable format.

39       (b) The Secretary of State shall make available as soon as practicable the  
40 authorizations of the lobbyists' principals in an electronic, searchable format.

41       (c) The Secretary of State shall make available as soon as practicable the  
42 registrations of other persons required by this Chapter to file a registration in an  
43 electronic, searchable format.



1 (d) Within 20 days after the convening of each session of the General Assembly,  
 2 the Secretary of State shall furnish each designated individual and the State Legislative  
 3 Library a list of all persons who have registered as lobbyists and whom they represent.  
 4 A supplemental list of lobbyists shall be furnished periodically every 20 days while the  
 5 General Assembly is in session and every 60 days thereafter. For each special session of  
 6 the General Assembly, a supplemental list of lobbyists shall be furnished to the State  
 7 Legislative Library.

8 (e) All lists required by this section may be furnished electronically.

9 "Article 3.

10 "Prohibitions and Restrictions.

11 **"§ 120C-300. Contingency fees prohibited.**

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

14 (b) This section shall not apply to a person doing business with the State who is  
 15 engaged in sales with respect to that business with the State whose regular  
 16 compensation agreement includes commissions based on those sales.

17 (c) Any compensation paid to a lobbyist in violation of this section is subject to  
 18 forfeiture and shall be paid into the Civil Penalty and Forfeiture Fund.

19 **"§ 120C-301. Election influence prohibited.**

20 (a) No person shall attempt to influence the action of any designated individual  
 21 by the promise of financial support of the designated individual's candidacy, or by threat  
 22 of financial support in opposition to the designated individual's candidacy in any future  
 23 election.

24 (b) No lobbyist, lobbyist's principal, or other person required to register under  
 25 this Chapter shall attempt to influence the action of any designated individual by the  
 26 promise of financial support of the designated individual's candidacy, or by threat of  
 27 financial support in opposition to the designated individual's candidacy in any future  
 28 election.

29 **"§ 120C-302. Campaign contributions prohibition.**

30 No lobbyist or lobbyist's principal may make a contribution as defined in  
 31 G.S. 163-278.6 to a candidate or candidate campaign committee as defined in  
 32 G.S. 163-278.38Z when that candidate meets any of the following criteria:

33 (1) Is a legislator as defined in G.S. 120C-100.

34 (2) Is a public servant as defined in G.S. 138A-3(31)a.

35 **"§ 120C-303. Gifts by lobbyists and lobbyist's principals prohibited.**

36 (a) Except as provided in subsection (b) of this section, no lobbyist or lobbyist's  
 37 principal may directly or indirectly give a gift to a designated individual.

38 (b) Subsection (a) of this section shall not apply to gifts as described in  
 39 G.S. 138A-32(e).

40 (c) The offering or giving of a gift in compliance with this Chapter without  
 41 corrupt intent shall not constitute a violation of the statutes related to bribery or  
 42 solicitation of bribery under G.S. 14-217, 14-218, or 120-86, but shall be subject to civil  
 43 finis under G.S. 120C-601(b).

44 **"§ 120C-304. Restrictions.**

1 (a) No legislator or former legislator and no public servant or former public  
2 servant as defined in G.S. 138A-3(31)a. may register as a lobbyist under this Chapter  
3 within six months after the end of the term to which the member was elected or  
4 appointed.

5 (b) No person serving as a public servant as defined in G.S. 138A-3(31)c. may  
6 register as a lobbyist under this Chapter within one year after separation from  
7 employment or leaving office.

8 (c) No individual registered as a lobbyist under this Chapter shall serve as a  
9 campaign treasurer as defined in G.S. 163-278.6(19) or an assistant campaign treasurer  
10 for a political committee for the election of a member of the General Assembly or a  
11 Constitutional officer of the State.

12 (d) A lobbyist shall not be eligible for appointment by a State official to any body  
13 created under the laws of this State within 60 days after the expiration of the lobbyist's  
14 registration. Nothing herein shall be construed to prohibit appointment by any unit of  
15 local government.

16 (e) Any appointment or registration made in violation of this section shall be  
17 void.

18 **"§ 120C-305. Prohibition on the use of cash or credit of the lobbyist.**

19 No lobbyist or another acting on the lobbyist's behalf shall permit a designated  
20 individual, or that person's immediate family member, to use the cash or credit of the  
21 lobbyist for the purpose of lobbying unless the lobbyist is in attendance at the time of  
22 the reportable expenditure.

23 "Article 4.

24 "Reporting.

25 **"§ 120C-400. Reporting of reportable expenditures.**

26 For purposes of this Chapter, all reportable expenditures, as defined in  
27 G.S. 120C-100(12), made for the purpose of lobbying shall be reported, including the  
28 following:

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

32 (2) Contractual arrangements or direct business relationships between a  
33 lobbyist or lobbyist's principal and a designated individual, or that  
34 person's immediate family member, in effect during the reporting  
35 period or the previous 12 months.

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

38 (4) Reportable expenditures for gifts exempted by Article 3 of this  
39 Chapter.

40 **"§ 120C-401. Reporting generally.**

41 (a) Reports shall be filed whether or not reportable expenditures are made and  
42 shall be due 10 business days after the end of the reporting period.

43 (b) Each report shall set forth the fair market value or face value if shown, date, a  
44 description of the reportable expenditure, name and address of the payee, or beneficiary,

1 and name of any designated individual, or that person's immediate family member  
2 connected with the reportable expenditure. When more than 15 designated individuals  
3 benefit from a reportable expenditure, no names of individuals need be reported  
4 provided that the report identifies the approximate number of designated individuals  
5 benefiting and the basis for their selection, including the name of the legislative body,  
6 committee, caucus, or other group whose membership list is a matter of public record in  
7 accordance with G.S. 132-1 or including a description of the group that clearly  
8 distinguishes its purpose or composition from the general membership of the General  
9 Assembly. The approximate number of immediate family members of designated  
10 individuals who benefited from the reportable expenditure shall be listed separately.

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

12 (1) Transportation and lodging.

13 (2) Entertainment.

14 (3) Food and beverages.

15 (4) Meetings and events.

16 (5) Gifts.

17 (6) Other reportable expenditures.

18 (d) Each report shall be in the form prescribed by the Secretary of State, which  
19 may include electronic reports.

20 (e) When any report as required by this Article is not filed, the Secretary of State  
21 shall send a certified or registered letter advising the lobbyist, lobbyist's principal, or  
22 other person required to report of the delinquency and the penalties provided by law.  
23 Within 20 days of the receipt of the letter, the report shall be delivered or posted by  
24 United States mail to the Secretary of State together with a late filing fee in an amount  
25 equal to the late filing fee under G.S. 163-278.34(a)(2). Filing of the required report and  
26 payment of the additional fee within the time extended shall constitute compliance with  
27 this section.

28 (f) Failure to file a required report in one of the manners prescribed in this  
29 section shall void any and all registrations of the lobbyist, lobbyist's principal, or  
30 solicitor. No lobbyist, lobbyist's principal, or solicitor may register or reregister until  
31 full compliance with this section has occurred.

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

34 (h) The Secretary of State may adopt rules to facilitate complete and timely  
35 disclosure of required reporting, including additional categories of information, and to  
36 protect the addresses of payees under protective order issued pursuant to Chapter 50B of  
37 the General Statutes or participating in the Address Confidentiality Program pursuant to  
38 Chapter 15C of the General Statutes. The Secretary of State shall not impose any  
39 penalties or late filing fees upon a lobbyist, lobbyist's principal, or solicitor for  
40 subsequent failures to comply with the requirements of this section if the Secretary of  
41 State failed to provide the required notification under subsection (e) of this section.

42 **§ 120C-402. Lobbyist's reports.**

43 (a) Each lobbyist shall file quarterly reports under oath with the Secretary of  
44 State with respect to each lobbyist's principal.

1 (b) The report shall include all of the following:

2 (1) All reportable expenditures made for the purpose of lobbying during  
3 the reporting period.

4 (2) Solicitation of others when such solicitation involves:

5 a. Media costs which exceed a cost of one thousand dollars  
6 (\$1000) during the reporting period.

7 b. Mailing costs which exceed a cost of five hundred dollars  
8 (\$500.00) during the reporting period.

9 c. Conferences, meetings, or other similar events, which exceed a  
10 cost of five hundred dollars (\$500.00) during the reporting  
11 period.

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

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

22 **"§ 120C-403. Lobbyist's principal's reports.**

23 (a) Each lobbyist's principal shall file quarterly reports under oath with the  
24 Secretary of State with respect to each lobbyist's principal.

25 (b) The report shall be filed whether or not reportable expenditures are made,  
26 shall be due 10 business days after the end of the reporting period, and shall include all  
27 of the following:

28 (1) All reportable expenditures made for the purpose of lobbying during  
29 the reporting period.

30 (2) Solicitation of others when such solicitation involves:

31 a. Media costs which exceed a cost of one thousand dollars  
32 (\$1000) during the reporting period.

33 b. Mailing costs which exceed a cost of five hundred dollars  
34 (\$500.00) during the reporting period.

35 c. Conferences or other similar events, which exceed a cost of five  
36 hundred dollars (\$500.00) during the reporting period.

37 (3) Compensation paid to all lobbyists during the quarter. If a lobbyist is a  
38 full-time employee of the principal, or is compensated by means of an  
39 annual fee or retainer, the principal shall estimate and report the  
40 portion of the salary, fee, or retainer that compensates for lobbying.

41 (4) Reportable expenditures reimbursed or paid to lobbyists for lobbying  
42 that are not reported on the lobbyist's report, with an itemized  
43 description of those reportable expenditures.

1       (c) In addition to the reports required by this section, each lobbyist principal  
2 incurring reportable expenditures in any month while the General Assembly is in  
3 session with respect to lobbying legislators and legislative employees shall file a  
4 monthly reportable expenditure report. The monthly reportable expenditure report shall  
5 contain information required by this section with respect to all lobbying of legislators  
6 and legislative employees, and is due within 10 business days after the end of the  
7 month. The information on the monthly report shall also be included in each quarterly  
8 report required by subsection (a) of this section.

9 **"§ 120C-404. Solicitor's reports.**

10       (a) Each solicitor shall file quarterly reports under oath with the Secretary of  
11 State.

12       (b) The report shall include all of the following:

13           (1) All reportable expenditures made for the purpose of lobbying during  
14 the reporting period.

15           (2) Solicitation of others when such solicitation involves:

16               a. Media costs which exceed a cost of one thousand dollars  
17 (\$1000) during the reporting period.

18               b. Mailing costs which exceed a cost of five hundred dollars  
19 (\$500.00) during the reporting period.

20               c. Conferences, meetings, or other similar events, which exceed a  
21 cost of five hundred dollars (\$500.00) during the reporting  
22 period.

23 **"§ 120C-405. Report availability.**

24       (a) All reports filed under this Chapter shall be open to public inspection upon  
25 filing.

26       (b) The Secretary of State shall coordinate with the State Board of Elections to  
27 create a searchable Web-based database of reports filed under this Chapter and reports  
28 filed under Subchapter VIII of Chapter 163 of the General Statutes.

29                                       "Article 5.

30                                       "Liaison Personnel.

31 **"§ 120C-500. Liaison personnel.**

32       (a) All agencies and constitutional officers of the State, including all boards,  
33 commissions, departments, divisions, councils, constituent institutions of The  
34 University of North Carolina and other units of government in the executive branch,  
35 except local units of government, shall designate liaison personnel to lobby legislators  
36 and legislative employees.

37       (b) No State funds may be used to contract with persons who are not employed  
38 by the State to lobby legislators and legislative employees.

39       (c) No more than two persons may be designated as liaison personnel for each  
40 agency and constitutional officers of the State, including all boards, commissions,  
41 departments, divisions, councils, constituent institutions of The University of North  
42 Carolina, and other units of government in the executive branch.

43 **"§ 120C-501. Applicability of chapter on liaison personnel.**

1 (a) Except as otherwise provided in this section, this Chapter shall not apply to  
2 liaison personnel.

3 (b) The registration under G.S. 120C-200 shall apply to liaison personnel.

4 (c) The reports required by G.S. 120C-402 shall be completed and filed as  
5 required by that section.

6 "Article 6.

7 "Violations and Enforcement.

8 "**§ 120C-600. Powers and duties of the Secretary of State.**

9 (a) The Secretary of State shall perform systematic reviews of reports required to  
10 be filed under this Chapter on a regular basis to assure complete and timely disclosure  
11 of reportable expenditures.

12 (b) The Secretary of State may petition the Superior Court of Wake County for  
13 the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct  
14 investigations of violations of this Chapter. The court shall authorize subpoenas under  
15 this subsection when the court determines they are necessary for the enforcement of this  
16 Chapter. Subpoenas issued under this subsection shall be enforceable by the court  
17 through contempt powers. Venue shall be with the Superior Court of Wake County for  
18 any nonresident person, or that person's agent, who makes a reportable expenditure  
19 under this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4.

20 (c) Complaints of violations of this Chapter and all other records accumulated in  
21 conjunction with the investigation of these complaints shall be considered records of  
22 criminal investigations under G.S. 132-1.4.

23 "**§ 120C-601. Punishment for violation.**

24 (a) Whoever willfully violates any provision of Article 2 or Article 3 of this  
25 Chapter shall be guilty of a Class 1 misdemeanor, except as provided in those Articles.  
26 In addition, no lobbyist who is convicted of a violation of the provisions of this Chapter  
27 shall in any way act as a lobbyist for a period of two years from the date of conviction.

28 (b) In addition to the criminal penalties set forth in this section, the Secretary of  
29 State may levy civil fines for a violation of any provision of this Chapter up to five  
30 thousand dollars (\$5,000) per violation.

31 "**§ 120C-602. Enforcement by Attorney General.**

32 (a) The Secretary of State may investigate complaints of violations of this  
33 Chapter and shall report apparent violations of this Article to the Attorney General. The  
34 Attorney General shall, upon complaint, make an appropriate investigation thereof, and  
35 the Attorney General shall forward a copy of the investigation to the district attorney of  
36 the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who  
37 shall prosecute any person who violates any provisions of this Chapter.

38 (b) Complaints of violations of this Chapter involving the Secretary of State or  
39 any member of the Department of the Secretary of State shall be referred to the  
40 Attorney General for investigation. Any portion of the complaint not involving alleged  
41 violations of this Chapter by the Secretary of State or any member of the Department of  
42 the Secretary of State shall remain with the Secretary of State for investigation. The  
43 Attorney General shall, upon receipt of a complaint, make an appropriate investigation  
44 thereof, and the Attorney General shall forward a copy of the investigation to the district

1 attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is  
2 a part, who shall prosecute any person who violates any provisions of this Chapter.

3 (c) Complaints of violations of this Chapter involving the Attorney General or  
4 any member of the Department of Justice shall be investigated by the Secretary of State  
5 and any apparent violations reported to the district attorney of that prosecutorial district  
6 as defined in G.S. 7A-60 of which Wake County is a part. The district attorney of that  
7 prosecutorial district shall, upon receipt of the Secretary of State's report, prosecute any  
8 person who violates any provisions of this Chapter.

9 "Article 7.

10 "Exemptions.

11 "**§ 120C-700. Persons exempted from this Chapter.**

12 Except as otherwise provided in Article 8, the provisions of this Chapter shall not be  
13 construed to apply to any of the following lobbying activities:

- 14 (1) An individual solely engaged in expressing a personal opinion or  
15 stating facts or recommendations on legislative action or executive  
16 action to a designated individual and not acting as a lobbyist.
- 17 (2) A person appearing before a committee, commission, board, council,  
18 or other collective body whose membership includes one or more  
19 designated individuals at the invitation or request of the committee or a  
20 member thereof and who engages in no further activities as a lobbyist  
21 with respect to the legislative or executive action for which that person  
22 appeared.
- 23 (3) A duly elected or appointed official or employee of the State, the  
24 United States, a county, municipality, school district, or other  
25 governmental agency, when appearing solely in connection with  
26 matters pertaining to the office and public duties.
- 27 (4) A person performing professional services in drafting bills, or in  
28 advising and rendering opinions to clients, or to designated individuals  
29 on behalf of clients, as to the construction and effect of proposed or  
30 pending legislative or executive action where the professional services  
31 are not otherwise connected with the legislative or executive action.
- 32 (5) A person who owns, publishes, or is an employee of any news medium  
33 while engaged in the acquisition or dissemination of news on behalf of  
34 that news medium.
- 35 (6) Designated individuals while acting in their official capacity.
- 36 (7) A person responding to inquiries from a designated individual and who  
37 engages in no further activities as a lobbyist in connection with that  
38 inquiry.
- 39 (8) A person who is a political committee as defined in  
40 G.S. 163-278.6(14)a. or b., that person's employee, or that person's  
41 contracted service provider.

42 "Article 8.

43 "Miscellaneous.

1 **§ 120C-800. Reportable expenditures made by persons exempted or not covered**  
2 **by this Chapter.**

3 (a) If a designated individual accepts a reportable expenditure made for the  
4 purpose of lobbying with a total value of over two hundred dollars (\$200.00) per  
5 calendar quarter from a person or group of persons acting together, exempted or not  
6 otherwise covered by this Chapter, the person, or group of persons, making the  
7 reportable expenditure shall report the date, a description of the reportable expenditure,  
8 the name and address of the person, or group of persons, making the reportable  
9 expenditure, the name of the designated individual accepting the reportable expenditure,  
10 and the estimated fair market value, or face value if shown, of the reportable  
11 expenditure.

12 (b) If the person making the reportable expenditure in subsection (a) of this  
13 section is outside North Carolina, and the designated individual accepting the reportable  
14 expenditure is also outside North Carolina at the time the designated individual accepts  
15 the reportable expenditure, then the designated individual accepting the reportable  
16 expenditure shall be responsible for filing the report or reporting the information in the  
17 designated individual's statement of economic interest in accordance with  
18 G.S. 138A-24(a)(2).

19 (c) If a designated individual accepts a scholarship valued over two hundred  
20 dollars (\$200.00) from a person, or group of persons, acting together, exempted or not  
21 covered by this Chapter, the person, or group of persons, granting the scholarship shall  
22 report the date of the scholarship, a description of the event involved, the name and  
23 address of the person, or group of persons, granting the scholarship, the name of the  
24 designated individual accepting the scholarship, and the estimated fair market value.

25 (d) If the person granting the scholarship in subsection (c) of this section is  
26 outside North Carolina, the designated individual accepting the scholarship shall be  
27 responsible for filing the report or reporting the information in the designated  
28 individual's statement of economic interest in accordance with G.S. 138A-24(a)(2).

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

30 (1) Lawful campaign contributions properly received and reported as  
31 required under Article 22A of Chapter 163 of the General Statutes.

32 (2) Any gift from an extended family member to a designated individual.

33 (3) Gifts associated primarily with the designated individual's or that  
34 person's immediate family member's employment.

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

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

40 (f) Reports required by this section shall be filed within 10 business days after  
41 the end of the quarter in which the reportable expenditure was made, with the Secretary  
42 of State in a manner prescribed by the Secretary of State, which may include electronic  
43 reports. If the designated individual is required to file a statement of economic interest



1 under G.S. 138A-24, then that designated individual may opt to report any information  
2 required by this section in the statement of economic interest.

3 (g) For purposes of this section, the term 'scholarship' shall mean a grant-in-aid to  
4 attend a conference, meeting or other similar event."

5 **SECTION 19.** Sections 2 and 3 of S.L. 2005-456 are repealed.

6 **SECTION 20.** G.S. 120-86.1 reads as rewritten:

7 "**§ 120-86.1. Personnel-related action unethical.**

8 It shall be unethical for a legislator to take, promise, or threaten any legislative  
9 action, as defined in ~~G.S. 120-47.1(4)~~, G.S. 120C-100(4), for the purpose of influencing  
10 or in retaliation for any action regarding State employee hirings, promotions,  
11 grievances, or disciplinary actions subject to Chapter 126 of the General Statutes."

12 **SECTION 21.** G.S. 163-278.13B(a)(1) reads as rewritten:

13 "(1) "Limited contributor" means a lobbyist registered ~~pursuant to Article~~  
14 ~~9A of Chapter 120 under Chapter 120C~~ of the General Statutes, that  
15 lobbyist's agent, that lobbyist's principal as defined in  
16 ~~G.S. 120-47.1(7)~~, G.S. 120C-100(10) or a political committee that  
17 employs or contracts with or whose parent entity employs or contracts  
18 with a lobbyist registered ~~pursuant to Article 9A of Chapter 120~~under  
19 Chapter 120C of the General Statutes."

20 **SECTION 22.** Effective September 1, 2008, The Revisor of Statutes shall  
21 change the term "Secretary of State" to "State Ethics Commission" wherever it appears  
22 in Chapter 120C of the General Statutes. Effective September 1, 2008, all personnel and  
23 associated funding of those personnel employed with the Secretary of State with respect  
24 to Chapter 120C of the General Statutes shall be transferred to the State Ethics  
25 Commission.

26 **SECTION 23.** The authority, powers, duties and functions, records,  
27 personnel, property, unexpended balances of appropriations, allocations, or other funds,  
28 including the functions of budgeting and purchasing, of the North Carolina Board of  
29 Ethics of the Office of the Governor are transferred to the State Ethics Commission  
30 created in Section 1 of this act. The Director of the Budget shall resolve any disputes  
31 arising out of this transfer.

32 **SECTION 24.(a)** Persons holding covered positions on January 1, 2007,  
33 shall file statements of economic interest under Article 3 of Chapter 138A of the  
34 General Statutes by March 15, 2007.

35 **SECTION 24.(b)** Public servants holding positions on January 1, 2007, shall  
36 participate in ethics education presentations under G.S. 138A-14 on or before January 1,  
37 2008.

38 **SECTION 25.** If any section or provision of this act is declared  
39 unconstitutional or invalid by the courts, it does not affect the validity of this act as a  
40 whole or any part other than the part so declared to be unconstitutional or invalid. If  
41 G.S. 120C-302 as enacted by Section 18 of this act is declared unconstitutional or  
42 invalid by the courts, it shall be repealed.

43 **SECTION 26.** Sections 4 through 15 and Sections 17 through 22 of this act  
44 become effective January 1, 2007, and G.S. 120C-304, as enacted by Section 18 of this

1 act, applies to appointments made on or after that date. Sections 16, 25, and 26 of this  
2 act are effective when the act becomes law. The remainder of this act becomes effective  
3 October 1, 2006, and applies to covered persons and legislative employees on or after  
4 January 1, 2007, to acts and conflicts of interest that arise on or after January 1, 2007,  
5 and to offenses committed on or after January 1, 2007. Prosecutions for offenses or  
6 ethics violations committed before January 1, 2007, are not abated or affected by this  
7 act, and the statutes that would be applicable but for this act remain applicable to those  
8 prosecutions.