

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 612*
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Short Title: Amend Lobbying Laws.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LOBBYING LAWS BY INCREASING THE
INFORMATION REQUIRED TO BE REPORTED ON LEGISLATIVE
LOBBYING ACTIVITIES AND BY REQUIRING REGISTRATION AND
REPORTING OF LOBBYING ACTIVITIES OF EXECUTIVE BRANCH
AGENCIES AND EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9A of Chapter 120 of the General Statutes reads as
rewritten:

"Article 9A.

"Legislative Branch Lobbying.

"§ 120-47.1. Definitions.

For the purposes of this Article, the following terms shall have the meanings
ascribed to them in this section unless the context clearly indicates a different meaning:

(1) The terms "contribution," "compensation" and "expenditure" mean any
advance, conveyance, deposit, payment, gift, retainer, fee, salary,
honorarium, reimbursement, loan, pledge or anything of value and any
contract, agreement, promise or other obligation whether or not legally
enforceable, ~~but those terms do not include prizes, awards, or
compensation not exceeding one hundred dollars (\$100.00) in a
calendar year.enforceable.~~

(1a) The term "covered person" means a legislator, the Governor, or the
Lieutenant Governor.

(1b) The term "developing legislative goodwill" means the attempt to
obtain the goodwill of a covered person by communications or
activities with that covered person with the intention of ultimately
influencing legislative action, but does not otherwise include

- 1 communications or activities with a covered person in a normal
2 business or commercial relationship.
- 3 (1c) The term "executive lobbyist" means a lobbyist registered pursuant to
4 Article 4C of Chapter 147 of the General Statutes.
- 5 (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 6 (3a) The term "immediate family member" means spouse, unemancipated
7 children living in the individual's household, or persons claimed by the
8 individual or the individual's spouse as dependents for tax purposes
9 living in the individual's household.
- 10 (4) The term "legislative action" means the preparation, research, drafting,
11 introduction, consideration, modification, amendment, approval,
12 passage, enactment, tabling, postponement, defeat, or rejection of a
13 bill, resolution, amendment, motion, report, nomination, appointment,
14 or other matter by the legislature or by a member or employee of the
15 legislature acting or purporting to act in an official capacity. It also
16 includes the consideration of any bill by the Governor for the
17 Governor's approval or veto under Article II, Section 22(1) of the
18 Constitution or for the Governor to allow the bill to become law under
19 Article II, Section 22(7) of the Constitution.
- 20 (4a) The term "legislative employee" means employees and officers of the
21 General Assembly.
- 22 (4b) The term "legislative liaison personnel" means any State officer or
23 employee whose principal duties in ~~practice~~-practice, or as set forth in
24 that person's job ~~description~~-description, involve lobbying the General
25 Assembly.
- 26 (4c) The term "legislative lobbyist" means any lobbyist for or against
27 legislative action.
- 28 (4d) The term "legislator" means a member of the General Assembly or a
29 person elected or appointed a member of the General Assembly prior
30 to taking office.
- 31 (5) The term "lobbying" ~~means~~ means any of the following:
- 32 a. Influencing or attempting to influence legislative action or
33 developing legislative goodwill, through direct oral or written
34 communication with a ~~member of the General Assembly;~~
35 ~~or~~covered person or a legislative employee.
- 36 b. Solicitation of others by lobbyists or lobbyist's principals to
37 influence legislative action.
- 38 (6) The term "lobbyist" means an individual ~~who~~ who meets any of the
39 following criteria:
- 40 a. Is employed and receives compensation, or who contracts for
41 economic consideration, for the purpose of ~~lobbying;~~
42 ~~or~~lobbying.
- 43 b. Represents another person and receives compensation for the
44 purpose of lobbying.

1 c. Is legislative liaison personnel.

2 The term "lobbyist" shall not include those individuals who are
3 specifically exempted from this Article by G.S. 120-47.8. For the
4 purpose of determining whether an individual is a lobbyist under this
5 subdivision, reimbursement of actual travel and subsistence expenses
6 shall not be considered compensation; provided, however, that
7 reimbursement in the ordinary course of business of these expenses
8 shall be considered compensation if a significant part of the
9 individual's duties involve lobbying before the General Assembly.

10 (7) The terms "lobbyist's principal" and "principal" mean the ~~entity~~
11 ~~in person on~~ whose behalf the legislative lobbyist influences or
12 ~~attempts to influence legislative action.~~lobbies.

13 (8) The term "person" means any individual, firm, partnership, committee,
14 association, corporation, business entity, or any other organization or
15 group of persons.

16 (9) The General Assembly is in "regular session" from the date set by law
17 or resolution that the General Assembly convenes until the General
18 Assembly either:

19 a. Adjourns sine die; or

20 b. Recesses or adjourns for more than 10 days.

21 **"§ 120-47.2. Registration procedure.**

22 (a) A legislative lobbyist shall file a registration statement with the Secretary of
23 State before engaging in any ~~lobbying~~lobbying, in a manner prescribed by the Secretary
24 of State, including electronically. A separate registration statement is required for each
25 lobbyist's principal. The registration shall indicate whether it is registration as a
26 legislative lobbyist, executive lobbyist, or both, and a separate registration fee shall be
27 paid for each separate type of registration.

28 (b) The form of the registration shall be prescribed by the Secretary of State and
29 shall include the registrant's full name, firm, ~~and complete address;~~address and
30 telephone number; the registrant's place of business; the full ~~name and name,~~ complete
31 address and telephone number of each person by whom the registrant is employed or
32 retained; and a general description of the matters on which the registrant expects to act
33 as a legislative lobbyist.

34 (c) Each legislative lobbyist shall ~~register again~~file an amended registration form
35 with the Secretary of State no later than 10 days after any change in the information
36 supplied in ~~his~~the legislative lobbyist's last registration under subsection (b). Each
37 supplementary registration shall include a complete statement of the information that
38 has changed.

39 (d) Within 20 days after the convening of each session of the General Assembly,
40 the Secretary of State shall furnish each member of the General Assembly and the State
41 Legislative Library a list of all persons who have registered as executive or legislative
42 lobbyists and whom they represent. Within 20 days after the beginning of the term of a
43 Governor, the Secretary of State shall furnish the Governor, each other member of the
44 Council of State, the head of each principal department of the Executive Branch, and the

1 State Legislative Library a list of all persons who have registered as executive or
2 legislative lobbyists and whom they represent. A supplemental list of legislative
3 lobbyists shall be furnished periodically each 20 days thereafter as the session
4 progresses. A supplemental list of executive lobbyists shall be furnished periodically
5 each 60 days thereafter.

6 (e) Each registration statement of a legislative lobbyist required under this
7 Article shall be effective from the date of filing until January 1 of the following
8 odd-numbered year. The legislative lobbyist shall file a new registration statement after
9 that date, and the applicable fee shall be due and payable.

10 **"§ 120-47.3. Registration fee.**

11 (a) Every lobbyist's principal shall pay to the Secretary of State a fee of two
12 hundred dollars (\$200.00) that is due and payable by either the legislative lobbyist or
13 the lobbyist's principal at the time of registration.

14 (b) A separate registration, together with a separate registration fee of two
15 hundred dollars (\$200.00) is required for each lobbyist's principal for which a person
16 acts as a legislative lobbyist.

17 (c) Fees so collected shall be deposited in the General Fund of the State.

18 (d) The Secretary of State may prescribe that fees required under this section be
19 paid electronically.

20 **"§ 120-47.4. Written authority from lobbyist's principal to be filed.**

21 Each legislative lobbyist shall file with the Secretary of State within 10 days after his
22 the legislative lobbyist's registration a written authorization to act as such, signed by the
23 lobbyist's principal.

24 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

25 (a) No person shall act as a legislative lobbyist for compensation that is
26 dependent upon the result or outcome of any legislative action, which is dependent in
27 any manner upon the passage or defeat of any proposed legislation or upon any other
28 contingency connected with any action of the General Assembly, the House, the Senate
29 or any committee thereof.

30 (b) No person shall attempt to influence the action of any member of the General
31 Assembly by the promise of financial support of the member's candidacy, or by threat of
32 financial contribution or expenditure in opposition to the member's candidacy in any
33 future election.

34 **"§ 120-47.5A. Certain expenditures prohibited.**

35 (a) A lobbyist's principal and any legislative lobbyist acting on behalf of the
36 lobbyist's principal shall not collectively spend more than one hundred dollars (\$100.00)
37 in a calendar year on lobbying expenditures specified in subsection (c) of this section
38 for each covered person or legislative employee and that person's immediate family,
39 collectively.

40 (b) A legislative lobbyist shall not spend more than one hundred dollars
41 (\$100.00) in a calendar year on items specified in subsection (c) of this section for each
42 covered person or legislative employee and that person's immediate family, collectively,
43 that are not paid or reimbursed by a lobbyist's principal. The limits of this subsection

1 shall apply in addition to and regardless of the number of lobbyist's principals by whom
2 the legislative lobbyist is compensated.

3 (c) Lobbying expenditures include any of the following when made directly or
4 indirectly to support lobbying, and that benefit one covered person or legislative
5 employee, or that person's immediate family:

6 (1) Gifts, meals, event tickets, transportation, speaking fees, and other
7 expenses.

8 (2) Loans, other than commercially available loans made on terms not
9 more favorable than generally available to the public in the normal
10 course of business.

11 (3) Contributions, other than lawful campaign contributions.

12 Expenses benefiting more than one recipient shall be prorated among the recipients.

13 (d) The prohibitions on lobbying expenditures set forth in this section shall not
14 apply to any of the following:

15 (1) Gifts from a person who is the spouse, child, stepchild, parent, sibling,
16 mother-in-law, father-in-law, son-in-law, daughter-in-law,
17 grandparent, or grandchild of the covered person or legislative
18 employee, or who is a member of the covered person or legislative
19 employee's household, and dependent upon the covered person or
20 legislative employee.

21 (2) The cost of attendance or participation provided by the sponsoring
22 entity of lodging, and of food and beverages consumed, at events
23 sponsored by or in conjunction with a civic, charitable, governmental,
24 trade association, or community organization.

25 **"§ 120-47.6. Statements of lobbyist's lobbying expenses required.**

26 ~~(a) Each lobbyist shall file an expense report with the Secretary of State with~~
27 ~~respect to each principal within 60 days after the last day of the regular session. This~~
28 ~~expense report shall include all expenditures made between January 1 and the last day~~
29 ~~of the regular session. The lobbyist shall file a supplemental report including all~~
30 ~~expenditures made after the last day of the regular session, but during the calendar year,~~
31 ~~by February 28 of the following year. semiannual expense reports under oath with the~~
32 ~~Secretary of State, in a manner prescribed by the Secretary of State including~~
33 ~~electronically, with respect to each lobbyist's principal within 45 days after the end of~~
34 ~~the reporting periods ending on June 30 and December 31 of each year. The expense~~
35 ~~report shall include all expenditures during the prior six-month reporting period. The~~
36 ~~legislative lobbyist shall file both expense reports whether or not expenditures are made.~~

37 ~~(b) Each expense report shall set forth the following information:~~

38 ~~(1) date of each expenditure, to whom paid, the name of any legislator~~
39 ~~who benefitted from each expenditure, and the amount of each~~
40 ~~expenditure made during the previous reporting period in connection~~
41 ~~with lobbying, in each of the following categories: (1) transportation,~~
42 ~~(2) lodging, (3) entertainment, (4) food, (5) any item having a cash~~
43 ~~equivalent value of more than twenty five dollars (\$25.00) and (6)~~
44 ~~contributions made, paid, incurred or promised, directly or indirectly.~~

1 It shall not be necessary to report expenditures of twenty five dollars
2 (\$25.00) or less, nor shall it be necessary to report any expenditures
3 made in connection with the attendance of a legislator at any
4 fund-raising function or event sponsored by a nonprofit organization
5 qualified under 26 U.S.C. § 501(c). When more than 10 members of
6 the General Assembly benefitted or were invited to benefit from an
7 expenditure, the lobbyist shall not be required to report the name of
8 any legislator, but shall be required to report the number of legislators
9 or, with particularity, the basis for their selection. The fair market
10 value, date, the name and address of the person receiving payment, and
11 the type of item or activity of each expenditure made directly or
12 indirectly to support lobbying, that benefitted any covered person,
13 legislative employee, or that person's immediate family member, and
14 the name of each such person who benefited.

15 (2) The fair market value, date, the name and address of the person
16 receiving payment, and the type of item or activity of each contractual
17 arrangement or direct business relationship between a legislative
18 lobbyist or lobbyist's principal and a covered person, legislative
19 employee, or that person's immediate family member, in effect during
20 the reporting period or previous 12 months.

21 (c) All reports shall be in the form prescribed by the Secretary of State and shall
22 be open to public ~~inspection~~inspection upon filing.

23 (d) When a legislative lobbyist fails to file a lobbying expense report as required
24 ~~herein~~in this section, the Secretary of State shall send a certified or registered letter
25 advising the legislative lobbyist of the delinquency and the penalties provided by law.
26 Within 20 days of the receipt of the letter, the legislative lobbyist shall deliver or post
27 by United States mail to the Secretary of State the required report and an additional late
28 filing fee in an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

29 (e) Filing of the required report and payment of the additional fee within the time
30 extended shall constitute compliance with this section. Failure to file an expense report
31 in one of the manners prescribed ~~herein~~in this section shall result in revocation of any
32 and all registrations of a legislative lobbyist under this Article. No legislative lobbyist
33 may register or reregister under this Article until ~~he~~the legislative lobbyist has fully
34 complied with this section.

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

37 (g) The oath required under this section shall attest to the truthfulness and
38 completeness of the report.

39 **"§ 120-47.7. Statements of lobbyist's principal lobbying expenses required.**

40 (a) Each lobbyist's principal shall file ~~an expense report with the Secretary of~~
41 ~~State within 60 days after the last day of the regular session. This expense report shall~~
42 ~~include all expenditures made between January 1 and the last day of the regular session.~~
43 ~~The principal shall file a supplemental expense report, including all expenditures made~~
44 ~~after the last day of the regular session, but during the calendar year, by February 28 of~~

1 ~~the following year. semiannual expense reports under oath with the Secretary of State~~
2 ~~within 45 days after the end of the reporting periods ending on June 30 and December~~
3 ~~31 of each year. The expense report shall include all expenditures made during the prior~~
4 ~~six-month reporting period. The lobbyist's principal shall file both expense reports~~
5 ~~whether or not expenditures are made during a reporting period.~~

6 (b) ~~Each expense report shall set forth the name and address of each lobbyist~~
7 ~~employed, appointed, or retained by the lobbyist's principal, the date of each~~
8 ~~expenditure made, to whom paid, name of any legislator who benefitted from each~~
9 ~~expenditure, and amount of each expenditure made during the previous reporting period~~
10 ~~in connection with lobbying, in each of the following categories: (1) transportation, (2)~~
11 ~~lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of~~
12 ~~more than twenty-five dollars (\$25.00), (6) contributions made, paid, incurred or~~
13 ~~promised, directly or indirectly, and (7) compensation to lobbyists in connection with~~
14 ~~their lobbying activities. It shall not be necessary to report expenditures of twenty-five~~
15 ~~dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in~~
16 ~~connection with the attendance of a legislator at any fund raising function or event~~
17 ~~sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more~~
18 ~~than 10 members of the General Assembly benefitted or were invited to benefit from an~~
19 ~~expenditure, the principal shall not be required to report the name of any legislator, but~~
20 ~~shall be required to report the number of legislators or the basis for their selection. In~~
21 ~~the category of compensation to lobbyists the principal shall estimate and report the~~
22 ~~compensation paid or promised directly or indirectly, to all lobbyists based on the~~
23 ~~estimated time, effort and expense in connection with lobbying activities on behalf of~~
24 ~~the principal. If a lobbyist is a full-time employee of the principal, or is compensated by~~
25 ~~means of an annual fee or retainer, the principal shall estimate and report the portion of~~
26 ~~all such lobbyists' salaries or retainers that compensate the lobbyists for lobbying.~~
27 ~~following information:~~

28 (1) The fair market value, date, the name and address of the person
29 receiving payment, and the type of item or activity of each expenditure
30 made directly or indirectly to support lobbying, which benefitted any
31 covered person, legislative employee, or that person's immediate
32 family member, and the name of each such person who benefitted.

33 (2) The fair market value, date, the name and address of the person
34 receiving value, and the type of item or activity of each contractual
35 arrangement or direct business relationship between a legislative
36 lobbyist or lobbyist's principal and a covered person, legislative
37 employee, or that person's immediate family member, in effect during
38 the period or previous 12 months.

39 (3) The compensation paid or promised to all legislative lobbyists based
40 on estimated time and expense spent lobbying directly or indirectly on
41 behalf of the lobbyist's principal, including developing goodwill with
42 covered persons, and legislative employees. If a legislative lobbyist is
43 a full-time employee of the lobbyist's principal, or is compensated by
44 means of an annual fee or retainer, the lobbyist's principal shall

1 estimate and report the portion of the salary or retainer that
2 compensates for direct and indirect lobbying. The lobbyist's principal's
3 expense report shall include an itemized description of all expenditures
4 reimbursed or paid to legislative lobbyists for direct and indirect
5 lobbying that are not reported on the legislative lobbyists' reports.

6 (c) All reports shall be in the form prescribed by the Secretary of State and open
7 to public ~~inspection~~inspection upon filing.

8 (d) When a lobbyist's principal fails to file a lobbying expense report as required
9 ~~herein~~in this section, the Secretary of State shall send a certified or registered letter
10 advising the lobbyist's principal of the delinquency and the penalties provided by law.
11 Within 20 days of the receipt of the letter, the lobbyist's principal shall deliver or post
12 by United States mail to the Secretary of State the required report and a late filing fee in
13 an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

14 (e) Filing of the required report and payment of the late fee within the time
15 extended shall constitute compliance with this section. Failure to file an expense report
16 in one of the manners prescribed in this section shall result in revocation of any and all
17 registrations of a lobbyist's principal under this Article. No lobbyist's principal may
18 register or reregister under this Article until the lobbyist's principal has fully complied
19 with this section.

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

22 (g) The oath required under this section shall attest to the truthfulness and
23 completeness of the report.

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

25 (a) The Secretary of State shall perform systematic audits of reports required to
26 be filed under G.S. 120-47.6 and G.S. 120-47.7 on a regular basis.

27 (b) The Secretary of State may petition a court of competent jurisdiction for the
28 approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
29 investigations of violations of this Article. The court shall authorize subpoenas under
30 this subsection when the court determines they are necessary for the enforcement of this
31 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court
32 through the court's contempt powers.

33 (c) Complaints of violations of this Article and all other records accumulated in
34 conjunction with the investigation of these complaints shall be considered records of
35 criminal investigations under G.S. 132-1.4 and shall not become public records until a
36 determination is made by the appropriate prosecutorial authority that no criminal
37 charges will be brought against the person against whom the complaint was filed.

38 **"§ 120-47.7B. Prohibitions.**

39 (a) No member or former member of the General Assembly may be employed as
40 an executive or legislative lobbyist by a lobbyist's principal to lobby as defined in this
41 Article or Article 4C of Chapter 147 of the General Statutes during any biennial
42 legislative session to which the member or former member of the General Assembly has
43 been elected or appointed.

1 (b) No person serving as Governor or as a member of the Council of State may
2 be employed as an executive or legislative lobbyist by a lobbyist's principal to lobby as
3 defined in this Article or Article 4C of Chapter 147 of the General Statutes during the
4 time of the current biennial legislative session during which the person served in office.

5 (c) No individual registered as a legislative lobbyist shall serve as a campaign
6 manager or a campaign treasurer under Chapter 163 of the General Statutes for a
7 campaign for election as a member of the General Assembly.

8 **"§ 120-47.8. Persons exempted from provisions of Article.**

9 ~~The~~ Except as otherwise provided in this Article, the provisions of this Article shall
10 not be construed to apply to any of the following:

11 (1) An individual, not acting as a legislative lobbyist, solely engaged in
12 expressing a personal opinion on legislative matters to ~~his~~ the
13 individual's own legislative delegation or other members of the
14 General Assembly.

15 (2) A person appearing before a legislative committee at the invitation or
16 request of the committee or a member thereof and who engages in no
17 further activities as a legislative lobbyist in connection with that or any
18 other legislative ~~matter~~ action.

19 (3) a. A duly elected or appointed official or employee of the State,
20 the United States, a county, municipality, school district or
21 other governmental agency, when appearing solely in
22 connection with matters pertaining to ~~his~~ the office and public
23 duties.

24 b. Notwithstanding the persons exempted in this Article, the
25 Governor, Council of State, and all appointed heads of State
26 departments, agencies and institutions, shall designate all
27 authorized official legislative liaison personnel and shall file
28 and maintain current lists of designated legislative liaison
29 personnel with the Secretary of State ~~and shall likewise file~~
30 ~~with the Secretary of State a full and accurate accounting of all~~
31 ~~money expended on lobbying, other than the salaries of regular~~
32 ~~full-time employees, at the same times lobbyists are required to~~
33 ~~file expense reports under G.S. 120-47.6.~~ State.

34 (4) A person performing professional services in drafting bills or in
35 advising and rendering opinions to clients, or to ~~legislators~~ covered
36 persons on behalf of clients, as to the construction and effect of
37 proposed or pending legislation where the professional services are not
38 otherwise, directly or indirectly, connected with legislative action.

39 (5) A person who owns, publishes or is employed by any news medium
40 while engaged in the acquisition or dissemination of news on behalf of
41 the news medium.

42 (6) Repealed by Session Laws 1991, c. 740, s. 1.1.

43 (7) Members of the General Assembly.

1 (8) A person responding to inquiries from a member of the General
2 Assembly or a legislative employee, and who engages in no further
3 activities as a legislative lobbyist in connection with that or any other
4 legislative matter.

5 (9) An individual giving facts or recommendations pertaining to
6 legislative ~~matters~~ actions to ~~his~~ the individual's own legislative
7 delegation only.

8 (10) An employee who represents the employer's interests in legislative
9 action for no more than six hours during a reporting period, provided
10 that neither the employee nor the employer makes any expenditure
11 directly or indirectly that would be prohibited under G.S. 120-47.5A,
12 or any expenditure reportable under G.S. 120-47.6 or G.S. 120-47.7, if
13 the person were not exempt under this section.

14 **"§ 120-47.9. Punishment for violation.**

15 (a) Whoever willfully violates any provision of this Article shall be guilty of a
16 Class 1 misdemeanor. In addition, no legislative lobbyist who is convicted of a violation
17 of the provisions of this Article shall in any way act as a legislative or executive
18 lobbyist for a period of two years following ~~his~~ conviction.

19 (b) In addition to the criminal penalties set forth in this section, the Secretary of
20 State may levy civil fines for false or incomplete reporting up to five thousand dollars
21 (\$5,000) per violation.

22 **"§ 120-47.10. Enforcement of Article by Attorney General.**

23 The Secretary of State shall report apparent violations of this Article to the Attorney
24 General. The Attorney General shall, upon complaint made to ~~him~~ the Attorney General
25 of violations of this Article, make an appropriate investigation thereof, and ~~he~~ the
26 Attorney General shall forward a copy of the investigation to the district attorney of the
27 prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who
28 shall prosecute any person who violates any provisions of this Article.

29 **"§ 120-47.11. Rules and forms.**

30 The Secretary of State shall ~~make, amend, and rescind~~ adopt any rules, orders, forms,
31 and definitions as are necessary to carry out the provisions of this Article.

32 **"§ 120-47.12. Limitations on agency legislative liaisons.**

33 (a) No ~~principal~~ State department may use State funds to contract with persons
34 who are not employed by the State to lobby the General Assembly.

35 (b) No more than two persons in each ~~principal~~ State department and constituent
36 institution of The University of North Carolina may be registered to lobby the General
37 Assembly or designated as legislative ~~liaisons~~ liaison personnel pursuant to this Article.

38 (c) All persons designated as legislative liaison personnel pursuant to this Article
39 and the State department or constituent institution of The University of North Carolina
40 who employs the legislative liaison personnel shall report all expenditures made for
41 lobbying purposes in the same manner as required for legislative lobbyists under
42 G.S. 120-47.6 and lobbyist's principals under G.S. 120-47.7."

43 **SECTION 2.** Chapter 147 of the General Statutes is amended by adding a
44 new Article to read:

1 "Article 4C.

2 "Executive Branch Lobbying.

3 "**§ 147-54.31. Definitions.**

4 For the purposes of this Article, the following terms shall have the meanings
5 ascribed to them in this section unless the context clearly indicates a different meaning:

- 6 (1) The terms "contribution," "compensation," and "expenditure" mean
7 any advance, conveyance, deposit, payment, gift, retainer, fee, salary,
8 honorarium, reimbursement, loan, pledge, or anything of value and any
9 contract, agreement, promise, or other obligation whether or not
10 legally enforceable.
- 11 (2) The term "developing executive branch goodwill" means the attempt
12 to obtain the goodwill of an executive branch officer or employee by
13 communications or activities with that executive branch officer or
14 employee with the intention of ultimately influencing executive action.
- 15 (3) The term "executive action" means the preparation, research, drafting,
16 introduction, consideration, modification, amendment, approval,
17 passage, adoption, tabling, postponement, defeat, or rejection of a rule,
18 regulation, executive order, policy, resolution, contract, request for
19 proposal, amendment, motion, report, nomination, or appointment by
20 the executive branch or by a member or employee of the executive
21 branch acting or purporting to act in an official capacity. This term
22 shall not include any action by an attorney in connection with litigation
23 or an administrative hearing under Chapter 150B of the General
24 Statutes, involving a State official or State agency.
- 25 (4) The term "executive branch officer or employee" means the Governor,
26 any member of the Council of State, State official, member of a State
27 board, commission, council or authority, State employee, or any other
28 person elected or appointed to a Council of State position prior to
29 taking office, who participates in decision making regarding executive
30 action but does not include persons chiefly engaged in clerical,
31 secretarial, or ministerial duties.
- 32 (5) The term "executive lobbyist" means any lobbyist for or against
33 executive action.
- 34 (6) The term "immediate family member" means spouse, unemancipated
35 children living in the individual's household, or persons claimed by the
36 individual or the individual's spouse as dependents for tax purposes,
37 living in the household.
- 38 (7) The term "legislative lobbyist" means a lobbyist registered pursuant to
39 Article 9A of Chapter 120 of the General Statutes.
- 40 (8) The term "lobbying" means any of the following:
41 a. Influencing or attempting to influence executive action or
42 developing executive branch goodwill through direct oral or
43 written communication with an officer or employee of the
44 executive branch authorized to take such action, including

1 members of boards, commissions, councils, or other collective
2 bodies.

3 b. Solicitation of others by lobbyists to influence executive action.

4 (9) The term "lobbyist" means an individual who:

5 a. Is employed and receives compensation, or who contracts for
6 economic consideration, for the purpose of lobbying; or

7 b. Represents another person and receives compensation for the
8 purpose of lobbying.

9 The term "lobbyist" shall not include those individuals who are
10 specifically exempted from this Article by G.S. 147-54.40. For the
11 purpose of determining whether an individual is a lobbyist under this
12 subdivision, reimbursement of actual travel and subsistence expenses
13 shall not be considered compensation; provided, however, that
14 reimbursement in the ordinary course of business of these expenses
15 shall be considered compensation if a significant part of the
16 individual's duties involves lobbying before the Executive Branch.

17 (10) The terms "lobbyist's principal" and "principal" mean the person on
18 whose behalf the executive lobbyist lobbies.

19 (11) The term "person" means any individual, firm, partnership, committee,
20 association, corporation, business entity, or any other organization or
21 group of persons.

22 **"§ 147-54.32. Registration procedure.**

23 (a) An executive lobbyist shall file a registration statement with the Secretary of
24 State before engaging in any lobbying, in a manner prescribed by the Secretary of State,
25 including electronically. A separate registration statement is required for each lobbyist's
26 principal. The registration shall indicate whether it is for executive action, legislative
27 action, or both, and a separate registration fee shall be paid for each separate type of
28 registration.

29 (b) The form of the registration shall be prescribed by the Secretary of State and
30 shall include the registrant's full name, firm, complete address, and telephone number;
31 the registrant's place of business; the full name, complete address, and telephone
32 number of each person by whom the registrant is employed or retained; and a general
33 description of the matters on which the registrant expects to act as a lobbyist.

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

39 (d) Each registration statement of an executive lobbyist required under this
40 Article shall be effective from the date of filing until January 1 of the following year.
41 The executive lobbyist shall file a new registration statement effective on or before
42 January 1 for the subsequent year and annually thereafter. The applicable fee shall be
43 due and payable upon the filing of each registration statement.

44 **"§ 147-54.33. Registration fee.**

1 (a) Every lobbyist's principal shall pay to the Secretary of State a fee of two
2 hundred dollars (\$200.00) that is due and payable by either the executive lobbyist or the
3 lobbyist's principal at the time of registration.

4 (b) A separate registration, together with a separate registration fee of two
5 hundred dollars (\$200.00), is required for each lobbyist's principal for which a person
6 acts as an executive lobbyist.

7 (c) Fees collected under this section shall be deposited in the General Fund of the
8 State.

9 (d) The Secretary of State may prescribe that fees required under this section be
10 paid electronically.

11 **"§ 147-54.34. Written authority from lobbyist's principal to be filed.**

12 Each executive lobbyist shall file with the Secretary of State within 10 days after the
13 executive lobbyist's registration a written authorization to act as such, signed by the
14 lobbyist's principal.

15 **"§ 147-54.35. Contingency lobbying fees and election influence prohibited.**

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

18 (b) No person shall attempt to influence the action of an executive branch officer
19 or employee by the promise of financial support of the executive branch officer's or
20 employee's candidacy, or by threat of financial contribution or expenditure in opposition
21 to the executive branch officer's or employee's candidacy in any future election.

22 **"§ 147-54.36. Certain expenditures prohibited.**

23 (a) A lobbyist's principal and any executive lobbyist acting on behalf of the
24 principal shall not collectively spend more than one hundred dollars (\$100.00) in a
25 calendar year on lobbying expenditures specified in subsection (c) of this section for
26 each executive branch officer or employee and that person's immediate family,
27 collectively.

28 (b) An executive lobbyist shall not spend more than one hundred dollars
29 (\$100.00) in a calendar year on items specified in subsection (c) of this section for each
30 executive branch officer or employee and that person's immediate family, collectively,
31 that are not paid or reimbursed by a lobbyist's principal. The limits of this subsection
32 shall apply in addition to and regardless of the number of lobbyist's principals by whom
33 the executive lobbyist is compensated.

34 (c) Lobbying expenditures include any of the following when made directly or
35 indirectly to support lobbying, and that benefit one executive branch officer or
36 employee, or that person's immediate family:

37 (1) Gifts, meals, event tickets, transportation, speaking fees, and other
38 expenses.

39 (2) Loans, other than commercially available loans made on terms not
40 more favorable than generally available to the public in the normal
41 course of business.

42 (3) Contributions, other than lawful campaign contributions.

43 Expenses benefiting more than one recipient shall be prorated among the recipients.

1 (d) The prohibitions on lobbying expenditures set forth in this section shall not
2 apply to any of the following:

3 (1) Gifts from a person who is the spouse, child, stepchild, parent, sibling,
4 mother-in-law, father-in-law, son-in-law, daughter-in-law,
5 grandparent, or grandchild of the executive branch officer or
6 employee, or who is a member of the executive branch officer or
7 employee's household, and dependent upon the executive branch
8 officer or employee.

9 (2) The cost of attendance or participation provided by the sponsoring
10 entity, of lodging, and of food and beverages consumed, at events
11 sponsored by or in conjunction with a civic, charitable, governmental,
12 trade association, or community organization.

13 **"§ 147-54.37. Statements of lobbyist's lobbying expenses required.**

14 (a) Each executive lobbyist shall file semiannual expense reports under oath with
15 the Secretary of State, in a manner prescribed by the Secretary of State including
16 electronically, with respect to each lobbyist's principal within 45 days after the end of
17 the reporting periods ending on June 30 and December 31 of each year. The expense
18 report shall include all expenditures during the prior six-month reporting period. The
19 executive lobbyist shall file an expense report whether or not expenditures are made.

20 (b) Each expense report shall set forth the following information:

21 (1) The fair market value, date, the name and address of the person
22 receiving payment, and the type of item or activity of each expenditure
23 made directly or indirectly to support lobbying, including developing
24 executive branch goodwill, which benefited any executive branch
25 officer or employee, or that person's immediate family member, and
26 the name of each such person who benefited.

27 (2) The fair market value, date, the name and address of the person
28 receiving value, and the type of item or activity of each contractual
29 arrangement or direct business relationship between an executive
30 lobbyist or lobbyist's principal and an executive branch officer or
31 employee, or that person's immediate family member, in effect during
32 the period or previous 12 months.

33 (c) All reports shall be in the form prescribed by the Secretary of State and shall
34 be open to public inspection upon filing.

35 (d) When an executive lobbyist fails to file a lobbying expense report as required
36 herein, the Secretary of State shall send a certified or registered letter advising the
37 executive lobbyist of the delinquency and the penalties provided by law. Within 20 days
38 of the receipt of the letter, the executive lobbyist shall deliver or post by United States
39 mail to the Secretary of State the required report and an additional late filing fee in an
40 amount equal to the late filing fee under G.S. 163-278.34(a)(2).

41 (e) Filing of the required report and payment of the additional fee within the time
42 extended shall constitute compliance with this section. Failure to file an expense report
43 in one of the manners prescribed herein shall result in revocation of any and all
44 registrations of an executive lobbyist under this Article. No executive lobbyist may

1 register or reregister under this Article until the executive lobbyist has fully complied
2 with this section. Appeal of a decision by the Secretary of State shall be in accordance
3 with Article 3 of Chapter 150B of the General Statutes.

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

6 (g) The oath required under this section shall attest to the truthfulness and
7 completeness of the report.

8 **"§ 147-54.38. Statements of lobbyist's principal lobbying expenses required.**

9 (a) Each executive lobbyist's principal shall file semiannual expense reports
10 under oath with the Secretary of State within 45 days after the end of the reporting
11 periods ending on June 30 and December 31 of each year. The expense report shall
12 include all expenditures made during the prior six-month reporting period. The
13 lobbyist's principal shall file an expense report whether or not expenditures are made
14 during a reporting period.

15 (b) Each expense report shall set forth the following information:

16 (1) The fair market value, date, the name and address of the person
17 receiving payment, and the type of item or activity of each expenditure
18 made directly or indirectly to support lobbying, including developing
19 executive branch goodwill, which benefited any executive branch
20 officer or employee, or that person's immediate family member, and
21 the name of each such person who benefited.

22 (2) The fair market value, date, the name and address of the person
23 receiving payment, and the type of item or activity of each contractual
24 arrangement or direct business relationship between an executive
25 legislative lobbyist or lobbyist's principal and an executive branch
26 officer or employee, or that person's immediate family member, in
27 effect during the period or previous 12 months.

28 (3) The compensation paid or promised to all executive lobbyists based on
29 estimated time and expense spent lobbying directly or indirectly on
30 behalf of the principal, including developing goodwill with executive
31 branch officers or employees. If an executive lobbyist is a full-time
32 employee of the lobbyist's principal, or is compensated by means of an
33 annual fee or retainer, the lobbyist's principal shall estimate and report
34 the portion of the salary or retainer that compensates for direct and
35 indirect lobbying. The principal's expense report shall include an
36 itemized description of all expenditures reimbursed or paid to
37 executive lobbyists for direct and indirect lobbying that are not
38 reported on the executive lobbyist's reports.

39 (c) All reports shall be in the form prescribed by the Secretary of State and open
40 to public inspection upon filing.

41 (d) When a lobbyist's principal fails to file a lobbying expense report as required
42 in this section, the Secretary of State shall send a certified or registered letter advising
43 the lobbyist's principal of the delinquency and the penalties provided by law. Within 20
44 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United

1 States mail to the Secretary of State the required report and a late filing fee in an amount
2 equal to the late filing fee under G.S. 163-278.34(a)(2).

3 (e) Filing of the required report and payment of the late fee within the time
4 extended shall constitute compliance with this section.

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

7 (g) The oath required under this section shall attest to the truthfulness and
8 completeness of the report.

9 **"§ 147-54.39. Powers and duties of the Secretary of State.**

10 (a) The Secretary of State shall perform systematic audits of reports required to
11 be filed under G.S. 147-54.37 and G.S. 147-54.38 on a regular basis.

12 (b) The Secretary of State may petition a court of competent jurisdiction for the
13 approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
14 investigations of violations of this Article. The court shall authorize subpoenas under
15 this subsection when the court determines they are necessary for the enforcement of this
16 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court
17 through the court's contempt powers.

18 (c) Complaints of violations of this Article and all other records accumulated in
19 conjunction with the investigation of these complaints shall be considered records of
20 criminal investigations under G.S. 132-1.4 and shall not become public records until a
21 determination is made by the appropriate prosecutorial authority that no criminal
22 charges will be brought against the person against whom the complaint was filed.

23 **"§ 147-54.40. Persons exempted from provisions of Article.**

24 The provisions of this Article shall not be construed to apply to any of the following:

25 (1) An individual, not acting as an executive lobbyist, solely engaged in
26 expressing a personal opinion on an executive action.

27 (2) A person appearing before a committee, commission, board, council,
28 or other collective body at the invitation or request of the collective
29 body or a member thereof and who engages in no further activities as
30 an executive lobbyist in connection with that or any other executive
31 action.

32 (3) A duly elected or appointed official or employee of the State, the
33 United States, a county, municipality, school district, or other
34 governmental agency, when appearing solely in connection with
35 matters pertaining to his office and public duties.

36 (4) A person performing professional services in drafting bills, rules,
37 regulations, executive orders, policies, resolutions, contracts, or
38 requests for proposal, or in advising and rendering opinions to clients,
39 or executive branch officials on behalf of clients, as to the construction
40 and effect of proposed or pending executive action where the
41 professional services are not otherwise, directly or indirectly,
42 connected with executive action.

- 1 (5) A person who owns, publishes, or is employed by any news medium
2 while engaged in the acquisition or dissemination of news on behalf of
3 the news medium.
- 4 (6) A person responding to inquiries from an executive branch officer or
5 employee and who engages in no further activities as an executive
6 lobbyist in connection with that or any other executive branch matter.
- 7 (7) A person appearing before an executive branch agency or department
8 on behalf of another person, on an individual application for a license
9 or permit, or a disciplinary action on a license or permit.
- 10 (8) An employee who represents the employer's interests in executive
11 action for no more than six hours during a six-month reporting period,
12 provided that neither the employee nor the employer make any
13 expenditure directly or indirectly that would be prohibited under
14 G.S. 147-54.36, or any expenditure reportable under G.S. 147-54.37 or
15 G.S. 147-54.38, if the person were not exempt under this section.

16 **"§ 147-54.41. Punishment for violation.**

17 (a) Whoever willfully violates any provision of this Article shall be guilty of a
18 Class 1 misdemeanor. In addition, no executive lobbyist who is convicted of a violation
19 of the provisions of this Article shall in any way act as an executive or legislative
20 lobbyist for a period of two years following conviction.

21 (b) In addition to the criminal penalties set forth in this section, the Secretary of
22 State may levy civil fines for false or incomplete reporting up to five thousand dollars
23 (\$5,000) per violation.

24 **"§ 147-54.42. Enforcement of Article by Attorney General.**

25 The Secretary of State shall report apparent violations of this Article to the Attorney
26 General. The Attorney General shall, upon complaint made to the Attorney General of
27 violations of this Article, make an appropriate investigation thereof, and the Attorney
28 General shall forward a copy of the investigation to the district attorney of the
29 prosecutorial district as defined in G.S. 7A-60, of which Wake County is a part, who
30 shall prosecute any person who violates any provisions of this Article.

31 **"§ 147-54.43. Rules and forms.**

32 The Secretary of State shall adopt any rules, orders, forms, and definitions as are
33 necessary to carry out the provisions of this Article."

34 **SECTION 3.** This act becomes effective January 1, 2006.