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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

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

21 **"§ 138A-3. Definitions.**

22 The following definitions apply in this Chapter:

- 23 (1) Board. – Any State board, commission, council, committee, task force,
24 authority, or similar public body, however denominated, created by
25 statute or executive order, except for those public bodies that have
26 only advisory authority, as determined and designated by the
27 Commission.
- 28 (2) Business. – Any of the following for profit:
29 a. Association.
30 b. Corporation.
31 c. Enterprise.
32 d. Joint venture.
33 e. Organization.
34 f. Partnership.
35 g. Proprietorship.
36 h. Vested trust.
37 i. Every other business interest, including ownership or use of
38 land for income.
- 39 (3) Business associate. – A partner, or member or manager of a limited
40 liability company.
- 41 (4) Business with which associated. – A business in which the person or
42 any member of the person's immediate family does any of the
43 following:
44 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 15th 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~~

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

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

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

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

21 (m) Ethics and Board Duties Education. – The Board shall institute by January 1,
22 1999, and conduct annually an education program on ethics and on the duties and
23 responsibilities of Board members. The training session shall be comprehensive in
24 ~~nature~~ nature, conducted in conjunction with the State Ethics Commission, and shall
25 include input from the Institute of Government, ~~the North Carolina Board of Ethics~~, the
26 Attorney General's Office, the University of North Carolina Highway Safety Research
27 Center, and senior career employees of the various divisions of the Department. This
28 program shall include an initial orientation for new members of the Board and
29 continuing education programs for Board members at least once each year.

30"

31 **PART III. AMEND LOBBYING LAWS.**

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

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

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

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

38 **"Chapter 120C.**

39 **"Lobbying.**

40 **"Article 1.**

41 **"General Provisions.**

42 **"§ 120C-100. Definitions.**

43 (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 "§ 120C-401. Reporting generally.

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

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

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

17 (1) Transportation and lodging.

18 (2) Entertainment.

19 (3) Food and beverages.

20 (4) Meetings and events.

21 (5) Gifts.

22 (6) Other reportable expenditures.

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

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

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

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

39 (h) The Secretary of State may adopt rules to facilitate complete and timely
40 disclosure of required reporting, including additional categories of information, and to
41 protect the addresses of payees under protective order issued pursuant to Chapter 50B of
42 the General Statutes or participating in the Address Confidentiality Program pursuant to
43 Chapter 15C of the General Statutes. The Secretary of State shall not impose any
44 penalties or late filing fees upon a lobbyist, lobbyist's principal, or solicitor for

1 subsequent failures to comply with the requirements of this section if the Secretary of
2 State failed to provide the required notification under subsection (e) of this section.

3 **"§ 120C-402. Lobbyist's reports.**

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

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

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

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

10 a. Media costs which exceed a cost of one thousand dollars
11 (\$1000) during the reporting period.

12 b. Mailing costs which exceed a cost of five hundred dollars
13 (\$500.00) during the reporting period.

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

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

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

27 **"§ 120C-403. Lobbyist's principal's reports.**

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

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

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

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

36 a. Media costs which exceed a cost of one thousand dollars
37 (\$1000) during the reporting period.

38 b. Mailing costs which exceed a cost of five hundred dollars
39 (\$500.00) during the reporting period.

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

42 (3) Compensation paid to all lobbyists during the quarter. If a lobbyist is a
43 full-time employee of the principal, or is compensated by means of an

1 annual fee or retainer, the principal shall estimate and report the
2 portion of the salary, fee, or retainer that compensates for lobbying.

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

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

14 **"§ 120C-404. Solicitor's reports.**

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

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

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

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

21 a. Media costs which exceed a cost of one thousand dollars
22 (\$1000) during the reporting period.

23 b. Mailing costs which exceed a cost of five hundred dollars
24 (\$500.00) during the reporting period.

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

28 **"§ 120C-405. Report availability.**

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

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

34 "Article 5.

35 "Liaison Personnel.

36 **"§ 120C-500. Liaison personnel.**

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

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

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

5 **"§ 120C-501. Applicability of chapter on liaison personnel.**

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

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

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

11 (d) G.S. 120C-303 shall apply to liaison personnel.

12 "Article 6.

13 "Violations and Enforcement.

14 **"§ 120C-600. Powers and duties of the Secretary of State.**

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

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

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

29 **"§ 120C-601. Punishment for violation.**

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

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

37 **"§ 120C-602. Enforcement by Attorney General.**

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

1 (b) Complaints of violations of this Chapter involving the Secretary of State or
2 any member of the Department of the Secretary of State shall be referred to the
3 Attorney General for investigation. Any portion of the complaint not involving alleged
4 violations of this Chapter by the Secretary of State or any member of the Department of
5 the Secretary of State shall remain with the Secretary of State for investigation. The
6 Attorney General shall, upon receipt of a complaint, make an appropriate investigation
7 thereof, and the Attorney General shall forward a copy of the investigation to the district
8 attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is
9 a part, who shall prosecute any person who violates any provisions of this Chapter.

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

16 "Article 7.

17 "Exemptions.

18 **"§ 120C-700. Persons exempted from this Chapter.**

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

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

1 (7) A person responding to inquiries from a designated individual and who
2 engages in no further activities as a lobbyist in connection with that
3 inquiry.

4 (8) A person who is a political committee as defined in
5 G.S. 163-278.6(14)a. or b., that person's employee, or that person's
6 contracted service provider.

7 "Article 8.

8 "Miscellaneous.

9 **"§ 120C-800. Reportable expenditures made by persons exempted or not covered**
10 **by this Chapter.**

11 (a) If a designated individual accepts a reportable expenditure made for the
12 purpose of lobbying with a total value of over two hundred dollars (\$200.00) per
13 calendar quarter from a person or group of persons acting together, exempted or not
14 otherwise covered by this Chapter, the person, or group of persons, making the
15 reportable expenditure shall report the date, a description of the reportable expenditure,
16 the name and address of the person, or group of persons, making the reportable
17 expenditure, the name of the designated individual accepting the reportable expenditure,
18 and the estimated fair market value, or face value if shown, of the reportable
19 expenditure.

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

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

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

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

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

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

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

43 (4) Gifts, other than food, beverages, travel, and lodging, which are
44 received from a person who is a citizen of a country other than the

1 United States or a state other than North Carolina and given during a
2 ceremonial presentation or as a custom.

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

4 (f) Reports required by this section shall be filed within 10 business days after
5 the end of the quarter in which the reportable expenditure was made, with the Secretary
6 of State in a manner prescribed by the Secretary of State, which may include electronic
7 reports. If the designated individual is required to file a statement of economic interest
8 under G.S. 138A-24, then that designated individual may opt to report any information
9 required by this section in the statement of economic interest.

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

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

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

14 **"§ 120-86.1. Personnel-related action unethical.**

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

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

20 "(1) "Limited contributor" means a lobbyist registered ~~pursuant to Article~~
21 ~~9A of Chapter 120 under Chapter 120C~~ of the General Statutes, that
22 lobbyist's agent, that lobbyist's principal as defined in
23 ~~G.S. 120-47.1(7)~~, G.S. 120C-100(10) or a political committee that
24 employs or contracts with or whose parent entity employs or contracts
25 with a lobbyist registered ~~pursuant to Article 9A of Chapter 120 under~~
26 Chapter 120C of the General Statutes."

27 **SECTION 22.** Effective September 1, 2008, The Revisor of Statutes shall
28 change the term "Secretary of State" to "State Ethics Commission" wherever it appears
29 in Chapter 120C of the General Statutes. Effective September 1, 2008, all personnel and
30 associated funding of those personnel employed with the Secretary of State with respect
31 to Chapter 120C of the General Statutes shall be transferred to the State Ethics
32 Commission.

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

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

42 **SECTION 24.(b)** Public servants holding positions on January 1, 2007, shall
43 participate in ethics education presentations under G.S. 138A-14 on or before January 1,
44 2008.

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

6 **SECTION 26.** Sections 4 through 15 and Sections 17 through 22 of this act
7 become effective January 1, 2007, and G.S. 120C-304, as enacted by Section 18 of this
8 act, applies to appointments made on or after that date. Sections 16, 25, and 26 of this
9 act are effective when the act becomes law. The remainder of this act becomes effective
10 October 1, 2006, and applies to covered persons and legislative employees on or after
11 January 1, 2007, to acts and conflicts of interest that arise on or after January 1, 2007,
12 and to offenses committed on or after January 1, 2007. Prosecutions for offenses or
13 ethics violations committed before January 1, 2007, are not abated or affected by this
14 act, and the statutes that would be applicable but for this act remain applicable to those
15 prosecutions.