

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 612*
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Short Title: Amend Lobbying Laws.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LOBBYING LAWS BY INCREASING THE
INFORMATION REQUIRED TO BE REPORTED ON LOBBYING ACTIVITIES
AND BY REQUIRING REPORTING OF LOBBYING ACTIVITIES OF
EXECUTIVE BRANCH OFFICERS, AND TO APPROPRIATE FUNDS TO
IMPLEMENT THE ACT.

The General Assembly of North Carolina enacts:

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

"Article 9A.

"Legislative Branch Lobbying.

"§ 120-47.1. Definitions.

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

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

~~(1)(1a) The terms "contribution," "compensation" and term "expenditure"
mean—means any advance, contribution, conveyance, deposit,
distribution, payment, gift, retainer, fee, salary, honorarium,
reimbursement, loan, pledge or anything-thing of value greater than ten
dollars (\$10.00), and anyor contracta contract, agreement, promise or
other obligation whether or not legally enforceable, but those terms do
not include prizes, awards, or compensation not exceeding one
hundred dollars (\$100.00) in a calendar year.that directly or indirectly
is made to, at the request of, for the benefit of, or on the behalf of a~~

1 covered person, legislative employee, or that person's immediate
2 family member.

3 (1b) The term "executive lobbyist" means a lobbyist registered pursuant to
4 Article 4C of Chapter 147 of the General Statutes.

5 (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.

6 (3a) The term "immediate family member" means spouse, descendant, or
7 ascendant.

8 (4) The term "legislative action" means the preparation, research, drafting,
9 introduction, consideration, modification, amendment, approval,
10 passage, enactment, tabling, postponement, defeat, or rejection of a
11 bill, resolution, amendment, motion, report, nomination, appointment,
12 or other matter by the legislature or by a member or employee of the
13 legislature acting or purporting to act in an official capacity. It also
14 includes the consideration of any bill by the Governor for the
15 Governor's approval or veto under Article II, Section 22(1) of the
16 Constitution or for the Governor to allow the bill to become law under
17 Article II, Section 22(7) of the Constitution.

18 (4a) The term "legislative employee" means employees and officers of the
19 General Assembly.

20 (4b) The term "legislative liaison personnel" means any State officer or
21 employee officer whose principal duties—duties, in practice or as set
22 forth in that person's job description—description, involve—include
23 lobbying the General Assembly.

24 (4c) The term "legislative lobbyist" means any lobbyist for or against
25 legislative action.

26 (4d) The term "legislator" means a member of the General Assembly or a
27 person elected or appointed a member of the General Assembly prior
28 to taking office.

29 (5) The term "lobbying" means: means any of the following:

30 a. Influencing or attempting to influence legislative action through
31 direct oral or written communication or activities with a
32 member of the General Assembly; or covered person, legislative
33 employee, or that person's immediate family member.

34 b. Solicitation of others by legislative lobbyists or lobbyists'
35 principals to influence legislative action.

36 c. Developing goodwill through communications or activities with
37 a covered person, legislative employee, or that person's
38 immediate family with the intention of influencing current or
39 future legislative action, but does not include communications
40 or activities with a covered person, legislative employee, or that
41 person's immediate family member in a business, civic,
42 religious, fraternal, or commercial relationship which is not
43 connected to legislative action.

- 1 (6) The term "lobbyist" means an individual ~~who~~ who meets any of the
2 following criteria:
3 a. Is employed and receives compensation, or who contracts for
4 economic consideration, for the purpose of ~~lobbying;~~
5 ~~or~~ lobbying.
6 b. Represents another person and receives compensation for the
7 purpose of lobbying.
8 c. Is legislative liaison personnel.

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

- 17 (7) The terms "lobbyist's principal" and "principal" mean the ~~entity~~
18 ~~in person on~~ whose behalf the legislative lobbyist influences or
19 ~~attempts to influence legislative action.~~ lobbies. In the case where a
20 lobbyist is employed by a law firm, consulting firm, or other entity
21 retained by a person for legislative lobbying, the principal is the person
22 whose interests the lobbyist represents in lobbying.
23 (8) The term "person" means any individual, firm, partnership, committee,
24 association, corporation, business entity, or any other organization or
25 group of ~~persons.~~ persons which has an independent legal existence.
26 (9) The General Assembly is in "regular session" from the date set by law
27 or resolution that the General Assembly convenes until the General
28 Assembly either:
29 a. Adjourns sine die; or
30 b. Recesses or adjourns for more than 10 days.

31 **"§ 120-47.2. Registration procedure.**

32 (a) A legislative lobbyist shall file a registration statement with the Secretary of
33 State before engaging in any ~~lobbying.~~ lobbying, in a manner prescribed by the Secretary
34 of State. It shall be unlawful for a person to lobby without registering unless exempted
35 by this Article. A separate registration statement is required for each lobbyist's
36 principal. The registration shall indicate whether it is registration as a legislative
37 lobbyist, executive lobbyist, or both, and a separate registration fee shall be paid for
38 each separate type of registration.

39 (b) The form of the registration shall be prescribed by the Secretary of State and
40 shall include the registrant's full name, firm, ~~and complete address;~~ address and
41 telephone number; the registrant's place of business; the full ~~name and~~ name, complete
42 address and telephone number of each person by whom the registrant is employed or
43 retained; and a general description of the matters on which the registrant expects to act
44 as a legislative lobbyist. The Secretary of State shall make available as soon as

1 practicable the registrations of the lobbyists and lobbyists' principals in an electronic,
2 searchable format.

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

8 (d) Within 20 days after the convening of each session of the General Assembly,
9 the Secretary of State shall furnish each member of the General Assembly and the State
10 Legislative Library a list of all persons who have registered as executive or legislative
11 lobbyists and whom they represent. Within 20 days after the beginning of the term of a
12 Governor, the Secretary of State shall furnish the Governor, each other member of the
13 Council of State, the head of each principal department of the Executive Branch, and the
14 State Legislative Library a list of all persons who have registered as executive or
15 legislative lobbyists and whom they represent. A supplemental list of legislative
16 lobbyists shall be furnished periodically each 20 days thereafter as the session
17 progresses. A supplemental list of executive lobbyists shall be furnished periodically
18 each 60 days thereafter. All lists required by this section may be furnished
19 electronically.

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

24 **"§ 120-47.3. Registration fee.**

25 (a) Every lobbyist's principal shall pay to the Secretary of State a fee of two
26 hundred dollars (\$200.00) one hundred dollars (\$100.00) that is due and payable by
27 either the legislative lobbyist or the lobbyist's principal at the time of registration. If the
28 legislative lobbyist is also registering as an executive lobbyist for that lobbyist's
29 principal, the fee shall be seventy-five dollars (\$75.00) to register as a legislative
30 lobbyist.

31 (b) A separate registration, together with a separate registration fee of two
32 hundred dollars (\$200.00) one hundred dollars (\$100.00) is required for each lobbyist's
33 principal for which a person acts as a legislative lobbyist. If the lobbyist's principal is
34 also registering under Article 4C of Chapter 147 of the General Statutes, the fee shall be
35 seventy-five dollars (\$75.00).

36 (c) Fees so collected shall be deposited in the General Fund of the State. All fees
37 shall be paid to the Department of the Secretary of State and deposited into the Lobbyist
38 Registration Fund to be used to pay the costs incurred in administering and enforcing
39 this Article.

40 (d) The Secretary of State may prescribe that fees required under this section may
41 be paid electronically, but may not require that fees be paid electronically.

42 **"§ 120-47.4. Written authority from lobbyist's principal to be filed.**

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

4 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

5 (a) No person shall act as a legislative lobbyist for compensation that is
6 dependent upon the result or outcome of any legislative action. ~~which is dependent in~~
7 ~~any manner upon the passage or defeat of any proposed legislation or upon any other~~
8 ~~contingency connected with any action of the General Assembly, the House, the Senate~~
9 ~~or any committee thereof.~~

10 (b) No ~~person~~ legislative lobbyist or legislative lobbyist's principal shall attempt
11 to influence the action of any ~~member of the General Assembly~~ covered person by the
12 promise of financial support of the ~~member's~~ covered person's candidacy, or by threat of
13 financial ~~contribution~~ support in opposition to the ~~member's~~ covered person's candidacy
14 in any future election.

15 **"§ 120-47.5A. Exemptions and inclusions for reporting purposes.**

16 (a) For purposes of G.S. 120-47.6 and G.S. 120-47.7, the following expenditures
17 need not be reported:

18 (1) Gifts from an immediate family member or person who is the child,
19 stepchild, parent, sibling, mother-in-law, father-in-law, son-in-law,
20 daughter-in-law, grandparent, or grandchild of the covered person or
21 legislative employee.

22 (2) Lawful campaign contributions.

23 (b) For purposes of G.S. 120-47.6 and G.S. 120-47.7, all expenditures made for
24 the purpose of lobbying shall be reported, including the following:

25 (1) Expenditures benefiting or made on behalf of a covered person, a
26 legislative employee, or those persons' immediate family members in
27 the regular course of that person's nonlegislative employment.

28 (2) Contractual arrangements or direct business relationships between a
29 legislative lobbyist or legislative lobbyist's principal and a covered
30 person, legislative employee, or that person's immediate family
31 member, in effect during the reporting period or the previous 12
32 months.

33 (3) Amounts reimbursed by a principal to a legislative lobbyist in the
34 ordinary course of business by the lobbyist's principal or other
35 employer.

36 **"§ 120-47.6. Statements of legislative lobbyist's lobbying expenses ~~expenditures~~**
37 **required.**

38 (a) Each legislative lobbyist shall file an ~~expense report~~ with the Secretary of
39 State ~~with respect to each principal within 60 days after the last day of the regular~~
40 ~~session. This expense report shall include all expenditures made between January 1 and~~
41 ~~the last day of the regular session. The lobbyist shall file a supplemental report~~
42 ~~including all expenditures made after the last day of the regular session, but during the~~
43 ~~calendar year, by February 28 of the following year.~~ monthly expenditure reports under
44 oath with the Secretary of State, in a manner prescribed by the Secretary of State

1 including electronically, with respect to each lobbyist's principal, while the General
2 Assembly is in regular session, and quarterly thereafter. The expenditure report shall
3 include all expenditures during the reporting period and shall be due 10 business days
4 after the end of the reporting period. The legislative lobbyist shall file both expense
5 reports whether or not expenditures are made.

6 (b) ~~Each expense-expenditure report shall set forth the date of each expenditure,~~
7 ~~to whom paid, the name of any legislator who benefitted from each expenditure, and the~~
8 ~~amount of each expenditure made during the previous reporting period in connection~~
9 ~~with lobbying, in each of the following categories: (1) transportation, (2) lodging, (3)~~
10 ~~entertainment, (4) food, (5) any item having a cash equivalent value of more than~~
11 ~~twenty-five dollars (\$25.00) and (6) contributions made, paid, incurred or promised,~~
12 ~~directly or indirectly. It shall not be necessary to report expenditures of twenty-five~~
13 ~~dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in~~
14 ~~connection with the attendance of a legislator at any fund raising function or event~~
15 ~~sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more~~
16 ~~than 10 members of the General Assembly benefitted or were invited to benefit from an~~
17 ~~expenditure, the lobbyist shall not be required to report the name of any legislator, but~~
18 ~~shall be required to report the number of legislators or, with particularity, the basis for~~
19 ~~their selection.~~
20 amount, date, a description of the expenditure, name and address of the
21 payee, and name of any covered person, legislative employee, or that person's
22 immediate family member benefiting from the expenditure. Such expenditures shall be
23 reported using the following categories:

- 23 (1) Transportation and lodging.
- 24 (2) Entertainment, food, and beverages.
- 25 (3) Meetings and events.
- 26 (4) Gifts.
- 27 (5) Solicitation of others to lobby.
- 28 (6) Other expenditures.

29 (c) All reports shall be in the form prescribed by the Secretary of State and shall
30 be open to public ~~inspection.~~inspection upon filing. When more than 15 covered persons
31 benefit from an expenditure, no names of individuals need be reported provided that the
32 report identifies the approximate number of covered persons benefiting and, with
33 particularity, the basis for their selection, including the name of the legislative body,
34 committee, caucus, or other group whose membership list is a matter of public record in
35 accordance with G.S. 132-1 or including a description of the group that clearly
36 distinguishes its purpose or composition from the general membership of the General
37 Assembly. The approximate number of legislative employees and immediate family
38 members of covered persons and legislative employees who benefited from the
39 expenditure shall be listed separately.

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

1 additional late filing fee in an amount equal to the late filing fee under
2 G.S. 163-278.34(a)(2).

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

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

11 (g) The Secretary of State may adopt rules to facilitate disclosure of
12 expenditures, including the format of reports and additional categories of information,
13 and to protect the addresses of payees under protective order issued pursuant to Chapter
14 50B of the General Statutes or participating in the Address Confidentiality Program
15 pursuant to Chapter 15C of the General Statutes.

16 **"§ 120-47.7. Statements of legislative lobbyist's principal lobbying expenses**
17 **expenditures required.**

18 (a) ~~Each legislative lobbyist's principal shall file an expense report with the~~
19 ~~Secretary of State within 60 days after the last day of the regular session. This expense~~
20 ~~report shall include all expenditures made between January 1 and the last day of the~~
21 ~~regular session. The principal shall file a supplemental expense report, including all~~
22 ~~expenditures made after the last day of the regular session, but during the calendar year,~~
23 ~~by February 28 of the following year. monthly expenditure reports under oath with the~~
24 ~~Secretary of State, in a manner prescribed by the Secretary of State including~~
25 ~~electronically, while the General Assembly is in regular session, and quarterly~~
26 ~~thereafter. The expenditure report shall include all expenditures during the reporting~~
27 ~~period, and shall be due 10 business days after the end of the reporting period. The~~
28 ~~lobbyist's principal shall file both expense the expenditure reports whether or not~~
29 ~~expenditures are made during a reporting period.~~

30 (b) ~~Each expense expenditure report shall set forth the name and address of each~~
31 ~~lobbyist employed, appointed, or retained by the lobbyist's principal, the date of each~~
32 ~~expenditure made, to whom paid, name of any legislator who benefitted from each~~
33 ~~expenditure, and amount of each expenditure made during the previous reporting period~~
34 ~~in connection with lobbying, in each of the following categories: (1) transportation, (2)~~
35 ~~lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of~~
36 ~~more than twenty five dollars (\$25.00), (6) contributions made, paid, incurred or~~
37 ~~promised, directly or indirectly, and (7) compensation to lobbyists in connection with~~
38 ~~their lobbying activities. It shall not be necessary to report expenditures of twenty five~~
39 ~~dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in~~
40 ~~connection with the attendance of a legislator at any fund raising function or event~~
41 ~~sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more~~
42 ~~than 10 members of the General Assembly benefitted or were invited to benefit from an~~
43 ~~expenditure, the principal shall not be required to report the name of any legislator, but~~
44 ~~shall be required to report the number of legislators or the basis for their selection. In~~

1 ~~the category of compensation to lobbyists the principal shall estimate and report the~~
2 ~~compensation paid or promised directly or indirectly, to all lobbyists based on the~~
3 ~~estimated time, effort and expense in connection with lobbying activities on behalf of~~
4 ~~the principal. If a lobbyist is a full-time employee of the principal, or is compensated by~~
5 ~~means of an annual fee or retainer, the principal shall estimate and report the portion of~~
6 ~~all such lobbyists' salaries or retainers that compensate the lobbyists for lobbying.~~
7 ~~amount, date, a description of the expenditure, name and address of the payee, and name~~
8 ~~of any covered person, legislative employee, or that person's immediate family member~~
9 ~~affected by the expenditure. Such expenditures shall be reported using the following~~
10 ~~categories:~~

11 (1) Transportation and lodging.

12 (2) Entertainment, food, and beverages.

13 (3) Meetings and events.

14 (4) Gifts.

15 (5) Solicitation of others to lobby.

16 (6) The compensation paid or agreed to be paid to all legislative lobbyists.

17 If a legislative lobbyist is a full-time employee of the lobbyist's

18 principal, or is compensated by means of an annual fee or retainer, the

19 lobbyist's principal shall estimate and report the portion of the salary

20 or retainer that compensates for direct and indirect lobbying. The

21 lobbyist's principal's expenditure report shall include an itemized

22 description of all expenditures reimbursed or paid to legislative

23 lobbyists for lobbying that are not reported on the legislative lobbyists'

24 reports. For purposes of this subsection, amounts reimbursed in the

25 ordinary course of business shall be considered compensation if a

26 significant part of the individual's duties involves legislative lobbying,

27 whether reimbursed by the principal or another source.

28 (7) Other expenditures.

29 (c) All reports shall be in the form prescribed by the Secretary of State and open
30 to public inspection. ~~inspection upon filing. When more than 15 covered persons benefit~~

31 from an expenditure, no names of individuals need be reported provided that the report
32 identifies the approximate number of covered persons benefiting and, with particularity,

33 the basis for their selection, including the name of the legislative body, committee,
34 caucus, or other group whose membership list is a matter of public record in accordance

35 with G.S. 132-1 or including a description of the group that clearly distinguishes its
36 purpose or composition from the general membership of the General Assembly. The

37 approximate number of legislative employees and immediate family members of
38 covered persons and legislative employees who benefited from the expenditure shall be

39 listed separately.

40 (d) ~~When a lobbyist's principal fails to file a lobbying expensean expenditure~~
41 ~~report as required herein, in this section,~~ the Secretary of State shall send a certified or

42 registered letter advising the lobbyist's principal of the delinquency and the penalties
43 provided by law. Within 20 days of the receipt of the letter, the lobbyist's principal shall

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

3 (e) Filing of the required report and payment of the late fee within the time
4 extended shall constitute compliance with this section. Failure to file an expenditure
5 report in one of the manners prescribed in this section shall result in revocation of any
6 and all registrations of a lobbyist's principal under this Article. No lobbyist's principal
7 may register or reregister under this Article until the lobbyist's principal has fully
8 complied with this section.

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

11 (g) The Secretary of State may adopt rules to facilitate disclosure of
12 expenditures, including the format of reports and additional categories of information,
13 and to protect the addresses of payees under protective order issued pursuant to Chapter
14 50B of the General Statutes or participating in the Address Confidentiality Program
15 pursuant to Chapter 15C of the General Statutes.

16 **"§ 120-47.7B. Powers and duties of the Secretary of State.**

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

19 (b) The Secretary of State may petition the Superior Court of Wake County for
20 the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
21 investigations of violations of this Article. The court shall authorize subpoenas under
22 this subsection when the court determines they are necessary for the enforcement of this
23 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court
24 through contempt powers.

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

28 **"§ 120-47.7C. Prohibitions.**

29 (a) No member or former member of the General Assembly may be employed as
30 an executive or legislative lobbyist by a lobbyist's principal to lobby as defined in this
31 Article or Article 4C of Chapter 147 of the General Statutes within one year after the
32 expiration of the term for which the member was elected or appointed to serve.

33 (b) No person serving as Governor, as a member of the Council of State, or as a
34 head of a principal State department listed in G.S. 143B-6 may be employed as an
35 executive or legislative lobbyist by a lobbyist's principal to lobby as defined in this
36 Article or Article 4C of Chapter 147 of the General Statutes within one year after
37 separation from employment or leaving office, whichever is later.

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

41 (d) A legislative or executive lobbyist shall not be eligible for appointment to any
42 board, authority, commission, or other body established by the laws of this State that
43 regulates the activities of a person that the lobbyist represented within one year after the
44 expiration of the lobbyist's registration.

1 (e) No legislative or executive lobbyist or another acting on the lobbyist's behalf
2 shall permit a covered person, legislative employee, executive branch officer, or that
3 person's immediate family member to use the cash or credit of the lobbyist for the
4 purpose of lobbying unless the lobbyist is in attendance at the time of the expenditure.

5 **"§ 120-47.8. Persons exempted from provisions of Article.**

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

- 8 (1) An ~~individual, not acting as a lobbyist,~~ individual solely engaged in
9 expressing a personal opinion or stating facts or recommendations on
10 legislative matters to ~~his own legislative delegation or other members~~
11 of the General Assembly.
- 12 (2) A person appearing before a legislative committee at the invitation or
13 request of the committee or a member thereof and who engages in no
14 further activities as a legislative lobbyist in connection with that or any
15 other legislative matter.~~lobbyist.~~
- 16 (3) a. A duly elected or appointed official or employee of the State,
17 the United States, a county, municipality, school district or
18 other governmental agency, when appearing solely in
19 connection with matters pertaining to ~~his~~ the office and public
20 duties.
- 21 b. Notwithstanding the persons exempted in this Article, the
22 Governor, Council of State, and all appointed heads of State
23 departments, agencies and institutions, shall designate all
24 authorized official legislative liaison personnel and shall file
25 and maintain current lists of designated legislative liaison
26 personnel with the Secretary of State ~~and shall likewise file~~
27 ~~with the Secretary of State a full and accurate accounting of all~~
28 ~~money expended on lobbying, other than the salaries of regular~~
29 ~~full time employees, at the same times lobbyists are required to~~
30 ~~file expense reports under G.S. 120-47.6.~~ State.
- 31 (4) A person performing professional services in drafting bills or in
32 advising and rendering opinions to clients, or to legislators ~~covered~~
33 persons on behalf of clients, as to the construction and effect of
34 proposed or pending legislation where the professional services are not
35 ~~otherwise, directly or indirectly,~~ otherwise connected with legislative
36 action.
- 37 (5) A person who owns, publishes or is employed by any news medium
38 while engaged in the acquisition or dissemination of news on behalf of
39 the news medium.
- 40 (6) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 41 (7) ~~Members of the General Assembly.~~ Covered persons and legislative
42 employees.
- 43 (8) A person responding to inquiries from a member of the General
44 Assembly or a legislative employee, and who engages in no further

1 activities as a legislative lobbyist in connection with that or any other
2 legislative matter.

- 3 (9) ~~An individual giving facts or recommendations pertaining to~~
4 ~~legislative matters to his own legislative delegation only.~~An employee
5 who represents the employer's interests in legislative action for no
6 more than three hours in a quarter, provided that neither the employee
7 nor the employer makes any expenditure as defined in G.S. 120-47.1.

8 **"§ 120-47.8A. Expenditures made by persons exempted or not covered by this**
9 **Article.**

10 (a) If a covered person or a legislative employee accepts an expenditure made for
11 the purpose of lobbying valued over two hundred dollars (\$200.00) from a person
12 exempted or not covered by this Article, the person making the expenditure shall report
13 the date, a description of the expenditure, the name and address of the person making
14 the expenditure, and the estimated fair market value of the expenditure.

15 (b) If the person making the expenditure in subsection (a) of this section is
16 outside North Carolina, the covered person or legislative employee accepting the
17 expenditure shall be responsible for filing the report.

18 (c) If a covered person or a legislative employee accepts a scholarship valued
19 over two hundred dollars (\$200.00) from a person exempted or not covered by this
20 Article, the person granting the scholarship shall report the date of the scholarship, a
21 description of the event involved, the name and address of the person granting the
22 scholarship, and the estimated fair market value.

23 (d) If the person granting the scholarship in subsection (c) of this section is
24 outside North Carolina, the covered person or legislative employee accepting the
25 scholarship shall be responsible for filing the report.

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

27 (1) Lawful campaign contributions.

28 (2) Any gift from a family member to a covered person or legislative
29 employee.

30 (3) Gifts associated primarily with the covered person, legislative
31 employee, or that person's immediate family member's nonlegislative
32 employment.

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

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

38 (f) Reports required by this section shall be filed by the end of the quarter
39 following the gift with the Secretary of State in a manner prescribed by the Secretary of
40 State, including electronically.

41 **"§ 120-47.9. Punishment for violation.**

42 (a) Whoever willfully violates any provision of this Article shall be guilty of a
43 Class 1 misdemeanor. In addition, no legislative lobbyist who is convicted of a violation

1 of the provisions of this Article shall in any way act as a legislative or executive
2 lobbyist for a period of two years following his conviction.

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

6 **"§ 120-47.10. Enforcement of Article by Attorney General.**

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

13 **"§ 120-47.11. Rules and forms.**

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

16 **"§ 120-47.12. Limitations on agency legislative ~~liaisons,~~ liaison personnel.**

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

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

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

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

29 "Article 4C.

30 "Executive Branch Lobbying.

31 **"§ 147-54.31. Definitions.**

32 The following definitions shall apply in this Article:

33 (1) The term "executive action" means the preparation, research, drafting,
34 introduction, consideration, modification, amendment, approval,
35 passage, adoption, tabling, postponement, defeat, or rejection of a rule,
36 regulation, executive order, policy, resolution, contract, request for
37 proposal, amendment, motion, report, nomination, or appointment by
38 the executive branch or by a member or employee of the executive
39 branch acting or purporting to act in an official capacity. This term
40 shall not include any action by an attorney representing a client with
41 respect to the executive action.

42 (2) The term "executive branch officers" means the Governor, any
43 member of the Council of State, and heads of those departments listed

1 in G.S. 143-6, and the Board of Governors and the presidents of the
2 universities of The University of North Carolina System.

3 (3) The term "executive lobbyist" means any lobbyist for or against
4 executive action.

5 (4) The term "expenditure" means any advance, contribution, conveyance,
6 deposit, distribution, payment, gift, retainer, fee, salary, honorarium,
7 reimbursement, loan, pledge, or thing of value greater than ten dollars
8 (\$10.00), or a contract, agreement, promise, or other obligation
9 whether or not legally enforceable, that directly or indirectly is made
10 to, at the request of, for the benefit of, or on the behalf of an executive
11 branch officer or that person's immediate family member.

12 (5) The term "immediate family member" means spouse, descendant or
13 ascendant.

14 (6) The term "lobbying" means any of the following:

15 a. Influencing or attempting to influence executive action or
16 through direct communication or activities with an executive
17 branch officer.

18 b. Solicitation of others by an executive lobbyist or lobbyist's
19 principal to influence executive action.

20 c. Developing executive goodwill through communications or
21 activities with an executive branch officer or that person's
22 immediate family with the intention of influencing current or
23 future executive action, but does not include communications or
24 activities with executive branch officers or that person's
25 immediate family member in a business, civic, religious,
26 fraternal, or commercial relationship which is not connected to
27 executive action.

28 (7) The term "lobbyist" means an individual who meets any of the
29 following criteria:

30 a. Is employed and receives compensation, or who contracts for
31 economic consideration, for the purpose of lobbying.

32 b. Represents another person and receives compensation for the
33 purpose of lobbying.

34 The term "lobbyist" shall not include those individuals who are
35 specifically exempted from this Article by G.S. 147-54.40. For the
36 purpose of determining whether an individual is an executive lobbyist
37 under this subdivision, reimbursement of actual travel and subsistence
38 expenses shall not be considered compensation; provided, however,
39 that reimbursement in the ordinary course of business of these
40 expenses shall be considered compensation if a significant part of the
41 individual's duties involves executive lobbying.

42 (8) The terms "lobbyist's principal" and "principal" mean the person on
43 whose behalf the executive lobbyist lobbies. In the case where a
44 lobbyist is employed by a law firm, consulting firm, or other entity

1 retained by a person for executive lobbying, the principal is the person
2 whose interests the lobbyist represents in lobbying.

3 (9) The term "person" means any individual, firm, partnership, committee,
4 association, corporation, business entity, or any other organization or
5 group of persons which has an independent legal existence.

6 **"§ 147-54.32. Registration procedure.**

7 (a) An executive lobbyist shall file a registration statement with the Secretary of
8 State before engaging in any lobbying in a manner prescribed by the Secretary of State.
9 It shall be unlawful for a person to lobby without registering unless exempted by this
10 Article. A separate registration statement is required for each lobbyist's principal. The
11 registration shall indicate whether it is registration as a legislative lobbyist, executive
12 lobbyist, or both, and a separate registration fee shall be paid for each separate type of
13 registration.

14 (b) The form of the registration shall be prescribed by the Secretary of State and
15 shall include the registrant's full name, firm, and complete address and telephone
16 number; the registrant's place of business; the full name and complete address and
17 telephone number of each person by whom the registrant is employed or retained; and a
18 general description of the matters on which the registrant expects to act as an executive
19 lobbyist. The Secretary of State shall make available as soon as practicable the
20 registrations of the lobbyists and lobbyists' principals in an electronic, searchable
21 format.

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

26 (d) Each registration statement of an executive lobbyist required under this
27 Article shall be effective from the date of filing until January 1 of the following year.
28 The executive lobbyist shall file a new registration statement after that date.

29 **"§ 147-54.34. Written authority from lobbyist's principal to be filed.**

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

33 **"§ 147-54.35. Contingency lobbying fees and election influence prohibited.**

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

36 (b) No executive lobbyist or executive lobbyist's principal shall attempt to
37 influence the action of an executive branch officer by the promise of financial support
38 of the executive branch officer's candidacy or appointment, or by threat of financial
39 support in opposition to the executive branch officer's candidacy in any future election.

40 **"§ 147-54.36. Exemptions and inclusions for reporting purposes.**

41 (a) For purposes of G.S. 147-54.36 and G.S. 147-54.37, the following
42 expenditures need not be reported:

43 (1) Gifts from an immediate family member or person who is the child,
44 stepchild, parent, sibling, mother-in-law, father-in-law, son-in-law,

1 daughter-in-law, grandparent, or grandchild of the executive branch
2 officer.

3 (2) Lawful campaign contributions.

4 (b) For purposes of G.S. 147-54.36 and G.S. 147-54.37, all expenditures made
5 for the purpose of lobbying need to be reported, including:

6 (1) Expenditures benefiting or made on behalf of an executive branch
7 officer or that person's immediate family members in the regular
8 course of that person's nonexecutive employment.

9 (2) Contractual arrangements or direct business relationships between an
10 executive lobbyist or executive lobbyist's principal and an executive
11 branch officer or that person's immediate family member, in effect
12 during the reporting period or the previous 12 months.

13 (3) Amounts reimbursed by a principal to an executive lobbyist in the
14 ordinary course of business by the lobbyist's principal or other
15 employer.

16 **"§ 147-54.37. Statements of executive lobbyist's lobbying expenditures required.**

17 (a) Each executive lobbyist shall file quarterly expenditure reports under oath
18 with the Secretary of State, in a manner prescribed by the Secretary of State, including
19 electronically, with respect to each lobbyist's principal within 10 days after the end of
20 the reporting period. The expenditure report shall include all expenditures during the
21 reporting period. The executive lobbyist shall file an expenditure report whether or not
22 expenditures are made.

23 (b) Each expenditure report shall set forth the amount, date, a description of the
24 expenditure, name and address of the payee, and name of any executive branch officer,
25 or that person's immediate family member affected by the expenditure. Such
26 expenditures shall be reported using the following categories:

27 (1) Transportation and lodging.

28 (2) Entertainment, food, and beverages.

29 (3) Meetings and events.

30 (4) Gifts.

31 (5) Solicitation of others to lobby.

32 (6) Other expenditures.

33 (c) All reports shall be in the form prescribed by the Secretary of State and shall
34 be open to public inspection upon filing. When more than 15 executive branch officers
35 benefit from an expenditure, no names of individuals need be reported provided that the
36 report identifies the approximate number of executive branch officers benefiting and,
37 with particularity, the basis for their selection. The approximate number of immediate
38 family members who benefited from the expenditure shall be listed separately.

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

1 (e) Filing of the required report and payment of the additional fee within the time
2 extended shall constitute compliance with this section. Failure to file an expense report
3 in one of the manners prescribed herein shall result in revocation of any and all
4 registrations of an executive lobbyist under this Article. No executive lobbyist may
5 register or reregister under this Article until the executive lobbyist has fully complied
6 with this section.

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

9 (g) The Secretary of State may adopt rules to facilitate disclosure of
10 expenditures, including the format of reports and additional categories of information,
11 and to protect the addresses of payees under protective order issued pursuant to Chapter
12 50B of the General Statutes or participating in the Address Confidentiality Program
13 pursuant to Chapter 15C of the General Statutes.

14 **"§ 147-54.38. Statements of lobbyist's principal lobbying expenses required.**

15 (a) Each executive lobbyist's principal shall file quarterly expenditure reports
16 under oath with the Secretary of State within 10 days after the end of the reporting
17 period. The expenditure report shall include all expenditures during the reporting
18 period. The lobbyist's principal shall file an expenditure report whether or not
19 expenditures are made during a reporting period.

20 (b) Each expenditure report shall set forth the amount, date, a description of the
21 expenditure, name and address of the payee, and name of any executive branch officers,
22 or that person's immediate family member affected by the expenditure. Such
23 expenditures shall be reported using the following categories:

- 24 (1) Transportation and lodging.
- 25 (2) Entertainment, food, and beverages.
- 26 (3) Meetings and events.
- 27 (4) Gifts.
- 28 (5) Solicitation of others to lobby.
- 29 (6) Other expenditures.

30 (c) All reports shall be in the form prescribed by the Secretary of State and open
31 to public inspection upon filing. When more than 15 executive branch officers benefit
32 from an expenditure, no names of individuals need be reported provided that the report
33 identifies the approximate number of executive branch officers benefiting and, with
34 particularity, the basis for their selection. The approximate number of immediate family
35 members who benefited from the expenditure shall be listed separately.

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

42 (e) Filing of the required report and payment of the late fee within the time
43 extended shall constitute compliance with this section. Failure to file an expense report
44 in one of the manners prescribed herein shall result in revocation of any and all

1 registrations of an executive lobbyist under this Article. No executive lobbyist may
2 register or reregister under this Article until the executive lobbyist has fully complied
3 with this section.

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

6 (g) The Secretary of State may adopt rules to facilitate disclosure of
7 expenditures, including the format of reports and additional categories of information,
8 and to protect the addresses of payees under protective order issued pursuant to Chapter
9 50B of the General Statutes or participating in the Address Confidentiality Program
10 pursuant to Chapter 15C of the General Statutes.

11 **"§ 147-54.39. Powers and duties of the Secretary of State.**

12 (a) The Secretary of State shall perform systematic audits of reports required to
13 be filed under G.S. 147-54.36 and G.S. 147-54.37 on a regular basis.

14 (b) The Secretary of State may petition the Superior Court of Wake County for
15 the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
16 investigations of violations of this Article. The court shall authorize subpoenas under
17 this subsection when the court determines they are necessary for the enforcement of this
18 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court
19 through contempt powers.

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

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

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

25 (1) An individual solely engaged in expressing a personal opinion on an
26 executive action.

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

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

36 (4) A person performing professional services in advising and rendering
37 opinions to clients, or executive branch officers on behalf of clients, as
38 to the construction and effect of proposed or pending executive action
39 where the professional services are not otherwise connected with
40 executive action.

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

- 1 (6) A person responding to inquiries from an executive branch officer and
2 who engages in no further activities as an executive lobbyist in
3 connection with that or any other executive action.
- 4 (7) A person appearing before an executive branch agency or department
5 on behalf of another person, on an individual application for a license
6 or permit, or a disciplinary action on a license or permit.
- 7 (8) An employee who represents the employer's interests in executive
8 action for no more than six hours during a six-month reporting period,
9 provided that neither the employee nor the employer make any
10 expenditure as defined in G.S. 147-54.31.

11 **"§ 147-54.41. Expenditures made by persons exempted or not covered by this**
12 **Article.**

13 (a) If an executive branch officer accepts an expenditure made for the purpose of
14 lobbying valued over two hundred dollars (\$200.00) from a person exempted or not
15 covered by this Article, the person making the expenditure shall report the date, a
16 description of the expenditure, the name and address of the person making the
17 expenditure, and the estimated fair market value of the expenditure.

18 (b) If the person making the expenditure in subsection (a) of this section is
19 outside North Carolina, the executive branch officer accepting the expenditure shall be
20 responsible for filing the report.

21 (c) If a covered person or a legislative employee accepts a scholarship valued
22 over two hundred dollars (\$200.00) from a person exempted or not covered by this
23 Article, the person granting the scholarship shall report the date of the scholarship, a
24 description of the event involved, the name and address of the person granting the
25 scholarship, and the estimated fair market value.

26 (d) If the person granting the scholarship in subsection (c) of this section is
27 outside North Carolina, the covered person or legislative employee accepting the
28 scholarship shall be responsible for filing the report.

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

30 (1) Lawful campaign contributions.

31 (2) Any gift from a family member to a covered person or legislative
32 employee.

33 (3) Gifts associated primarily with the executive branch officer or that
34 person's immediate family member's nonexecutive employment.

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

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

41 (f) Reports required by this section shall be filed by the end of the quarter
42 following the gift with the Secretary of State in a manner prescribed by the Secretary of
43 State, including electronically.

44 **"§ 147-54.42. Punishment for violation.**

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

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

8 **"§ 147-54.43. Enforcement of Article by Attorney General.**

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

14 **"§ 147-54.44. Rules and forms.**

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

17 **SECTION 3.** Article 4 of Chapter 147 of the General Statutes is amended by
18 adding a new section to read:

19 **"§ 147-54.8. No gifts registry.**

20 (a) The Secretary of State shall establish a 'No Gifts' registry for persons subject
21 to Article 9A of Chapter 120 of the General Statutes or Article 4C of this Chapter. The
22 'No Gifts' registry shall be published and updated with the list of lobbyists and lobbyists'
23 principals required under G.S. 120-47.2.

24 (b) Executive lobbyists, legislative lobbyists, and lobbyists' principals shall not
25 give gifts to persons placing their names on the registry.

26 (c) The Secretary shall have the authority to adopt rules to implement this section
27 in compliance with the following criteria:

28 (1) The registration is valid from the time the person registers until
29 January 1 of the following year, unless the person requests in writing
30 the removal of that person's name.

31 (2) The registration shall be in writing.

32 (d) For purposes of this section, the term "gift" means any payment,
33 entertainment, advance, services, forgiveness of an obligation or debt, or thing of value,
34 unless consideration of equal or greater value has been given therefor."

35 **SECTION 4.** There is appropriated from the General Fund to the Office of
36 the Secretary of State the sum of two hundred thousand dollars (\$200,000) for the
37 2005-2006 fiscal year to provide for the enforcement personnel, administrative staff,
38 and expenses necessary to implement this act.

39 **SECTION 5.** There is appropriated from the General Fund to the Office of
40 the Secretary of State the sum of one hundred twelve thousand dollars (\$112,000) for
41 the 2005-2006 fiscal year to provide for the implementation of electronic filing of all
42 lobbyists' and lobbyists' principals' reports required under Article 9A of Chapter 120 of
43 the General Statutes and to provide public access via the Internet to all these filings. The
44 Secretary of State shall implement electronic filing of all lobbyists' and lobbyists'

1 principals' reports required under Article 9A of Chapter 120 of the General Statutes and
2 provide public access via the Internet to all these filings as soon as practicable.

3 **SECTION 6.** Sections 4, 5, and 6 of this act become effective July 1, 2005.
4 G.S. 120-47.7C(d), as enacted by Section 1 of this act, shall apply to appointments
5 made on or after January 1, 2007. The remainder of this act becomes effective January
6 1, 2007.