

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 612\*  
Judiciary I Committee Substitute Adopted 3/31/05  
Finance Committee Substitute Adopted 4/11/05

Short Title: Amend Lobbying Laws.

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE LOBBYING LAWS BY INCREASING THE  
3 INFORMATION REQUIRED TO BE REPORTED ON LEGISLATIVE  
4 LOBBYING ACTIVITIES AND BY REQUIRING REGISTRATION AND  
5 REPORTING OF LOBBYING ACTIVITIES OF EXECUTIVE BRANCH  
6 AGENCIES AND EMPLOYEES.

7 The General Assembly of North Carolina enacts:

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

10 "Article 9A.

11 "Legislative Branch Lobbying.

12 "§ 120-47.1. Definitions.

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

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

22 (1a) The term "covered person" means a legislator, the Governor, or the  
23 Lieutenant Governor.

24 (1b) The term "developing legislative goodwill" means the attempt to  
25 obtain the goodwill of a covered person by communications or  
26 activities with that covered person with the intention of ultimately  
27 influencing legislative action.

- 1           (1c) The term "executive lobbyist" means a lobbyist registered pursuant to  
2           Article 4C of Chapter 147 of the General Statutes.
- 3           (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 4           (3a) The term "immediate family member" means spouse, unemancipated  
5           children living in the individual's household, or persons claimed by the  
6           individual or the individual's spouse as dependents for tax purposes  
7           living in the individual's household.
- 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 whose principal duties in ~~practice~~-practice, or as set forth in  
22           that person's job ~~description~~-description, involve lobbying the General  
23           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 or  
31           developing legislative goodwill, through direct oral or written  
32           communication with a ~~member of the General Assembly;~~  
33           ~~or~~covered person or a legislative employee.
- 34           b. Solicitation of others by lobbyists or lobbyist's principals to  
35           influence legislative action.
- 36           (6) The term "lobbyist" means an individual ~~who~~:who meets any of the  
37           following criteria:
- 38           a. Is employed and receives compensation, or who contracts for  
39           economic consideration, for the purpose of ~~lobbying~~;  
40           ~~or~~lobbying.
- 41           b. Represents another person and receives compensation for the  
42           purpose of lobbying.
- 43           c. Is legislative liaison personnel.

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

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

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

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

18           a. Adjourns sine die; or

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

20 **"§ 120-47.2. Registration procedure.**

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

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

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

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

1 legislative lobbyists and whom they represent. A supplemental list of legislative  
2 lobbyists shall be furnished periodically each 20 days thereafter as the session  
3 progresses. A supplemental list of executive lobbyists shall be furnished periodically  
4 each 60 days thereafter.

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

9 **"§ 120-47.3. Registration fee.**

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

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

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

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

19 **"§ 120-47.4. Written authority from lobbyist's principal to be filed.**

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

23 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

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

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

33 **"§ 120-47.5A. Certain expenditures prohibited.**

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

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

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

4           (1) Gifts, meals, event tickets, transportation, speaking fees, and other  
5 expenses.

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

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

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

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

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

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

23 **"§ 120-47.6. Statements of lobbyist's lobbying expenses required.**

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

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

36           (1) ~~date of each expenditure, to whom paid, the name of any legislator~~  
37 ~~who benefitted from each expenditure, and the amount of each~~  
38 ~~expenditure made during the previous reporting period in connection~~  
39 ~~with lobbying, in each of the following categories: (1) transportation,~~  
40 ~~(2) lodging, (3) entertainment, (4) food, (5) any item having a cash~~  
41 ~~equivalent value of more than twenty-five dollars (\$25.00) and (6)~~  
42 ~~contributions made, paid, incurred or promised, directly or indirectly.~~  
43 ~~It shall not be necessary to report expenditures of twenty five dollars~~  
44 ~~(\$25.00) or less, nor shall it be necessary to report any expenditures~~

1           ~~made in connection with the attendance of a legislator at any~~  
2           ~~fund-raising function or event sponsored by a nonprofit organization~~  
3           ~~qualified under 26 U.S.C. § 501(c).~~ When more than 10 members of  
4           ~~the General Assembly benefitted or were invited to benefit from an~~  
5           ~~expenditure, the lobbyist shall not be required to report the name of~~  
6           ~~any legislator, but shall be required to report the number of legislators~~  
7           ~~or, with particularity, the basis for their selection.~~ The fair market  
8           value, date, the name and address of the person receiving payment, and  
9           the type of item or activity of each expenditure made directly or  
10           indirectly to support lobbying, that benefitted any covered person,  
11           legislative employee, or that person's immediate family member, and  
12           the name of each such person who benefitted.

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

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

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

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

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

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

37           "**§ 120-47.7. Statements of lobbyist's principal lobbying expenses required.**

38           (a) Each lobbyist's principal shall file ~~an expense report with the Secretary of~~  
39           ~~State within 60 days after the last day of the regular session.~~ This expense report shall  
40           ~~include all expenditures made between January 1 and the last day of the regular session.~~  
41           ~~The principal shall file a supplemental expense report, including all expenditures made~~  
42           ~~after the last day of the regular session, but during the calendar year, by February 28 of~~  
43           ~~the following year.~~ semiannual expense reports under oath with the Secretary of State  
44           within 45 days after the end of the reporting periods ending on June 30 and December

1 31 of each year. The expense report shall include all expenditures made during the prior  
2 six-month reporting period. The lobbyist's principal shall file both expense reports  
3 whether or not expenditures are made during a reporting period.

4 (b) ~~Each expense report shall set forth the name and address of each lobbyist~~  
5 ~~employed, appointed, or retained by the lobbyist's principal, the date of each~~  
6 ~~expenditure made, to whom paid, name of any legislator who benefitted from each~~  
7 ~~expenditure, and amount of each expenditure made during the previous reporting period~~  
8 ~~in connection with lobbying, in each of the following categories: (1) transportation, (2)~~  
9 ~~lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of~~  
10 ~~more than twenty five dollars (\$25.00), (6) contributions made, paid, incurred or~~  
11 ~~promised, directly or indirectly, and (7) compensation to lobbyists in connection with~~  
12 ~~their lobbying activities. 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 principal shall not be required to report the name of any legislator, but~~  
18 ~~shall be required to report the number of legislators or the basis for their selection. In~~  
19 ~~the category of compensation to lobbyists the principal shall estimate and report the~~  
20 ~~compensation paid or promised directly or indirectly, to all lobbyists based on the~~  
21 ~~estimated time, effort and expense in connection with lobbying activities on behalf of~~  
22 ~~the principal. If a lobbyist is a full time employee of the principal, or is compensated by~~  
23 ~~means of an annual fee or retainer, the principal shall estimate and report the portion of~~  
24 ~~all such lobbyists' salaries or retainers that compensate the lobbyists for lobbying.~~  
25 following information:

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

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

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

1 expense report shall include an itemized description of all expenditures  
2 reimbursed or paid to legislative lobbyists for direct and indirect  
3 lobbying that are not reported on the legislative lobbyists' reports.

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

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

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

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

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

22 **"§ 120-47.7A. Powers and duties of the Secretary of State.**

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

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

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

36 **"§ 120-47.7B. Prohibitions.**

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

42 (b) No person serving as Governor or as a member of the Council of State may  
43 be employed as an executive or legislative lobbyist by a lobbyist's principal to lobby as



1 defined in this Article or Article 4C of Chapter 147 of the General Statutes during the  
2 time of the current biennial legislative session during which the person served in office.

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

6 **"§ 120-47.8. Persons exempted from provisions of Article.**

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

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

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

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

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

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

42 (8) A person responding to inquiries from a member of the General  
43 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~~ actions to ~~his~~ the individual's own legislative  
5 delegation only.

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

12 **"§ 120-47.9. Punishment for violation.**

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

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

20 **"§ 120-47.10. Enforcement of Article by Attorney General.**

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

27 **"§ 120-47.11. Rules and forms.**

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

30 **"§ 120-47.12. Limitations on agency legislative liaisons.**

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

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

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

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

43 "Article 4C.

44 "Executive Branch Lobbying.

1 **"§ 147-54.31. Definitions.**

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

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

- 1                    b.     Solicitation of others by lobbyists to influence executive action.  
2            (9)     The term "lobbyist" means an individual who:  
3                    a.     Is employed and receives compensation, or who contracts for  
4                                 economic consideration, for the purpose of lobbying; or  
5                    b.     Represents another person and receives compensation for the  
6                                 purpose of lobbying.

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

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

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

20     **"§ 147-54.32. Registration procedure.**

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

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

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

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

42     **"§ 147-54.33. Registration fee.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **"§ 147-54.37. Statements of lobbyist's lobbying expenses required.**

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

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

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

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

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

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

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

1 with this section. Appeal of a decision by the Secretary of State shall be in accordance  
2 with Article 3 of Chapter 150B of the General Statutes.

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

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

7 **"§ 147-54.38. Statements of lobbyist's principal lobbying expenses required.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

31 **"§ 147-54.43. Rules and forms.**

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

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