

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2008-213
HOUSE BILL 2542

AN ACT TO MAKE CLARIFYING CHANGES TO THE STATE GOVERNMENT
ETHICS ACT AND THE LOBBYING LAWS AND TO MAKE OTHER
CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 120-103.1 is amended by adding a new subsection to read:

"(a1) Complaints on Its Own Motion. – An investigation initiated by the Committee on its own motion instituted under subsection (a) of this section shall be treated as a complaint for purposes of this section and need not be sworn or verified."

SECTION 1.(b) G.S. 138A-12 is amended by adding a new subsection to read:

"(b1) Complaints on Its Own Motion. – An investigation initiated by the Commission on its own motion or upon written request of any public servant or those responsible for the hiring, appointing, or supervising of a public servant instituted under subsection (b) of this section shall be treated as a complaint for purposes of this section and need not be sworn or verified."

SECTION 2.(a) G.S. 120-104(g) reads as rewritten:

"(g) Except as provided under subsection (f) of this section, a ~~requests-request~~ request made by a legislator to the Committee for an advisory ~~opinions,opinion,~~ advisory opinions issued under this section, ~~and-recommended~~ advisory opinions received from the State Ethics ~~Commission-Commission,~~ and any supporting documents submitted or caused to be submitted to the Committee in connection with requests for advisory opinions or recommended advisory opinions are ~~confidential and not matters of public record.~~ are confidential. Neither the identity of the legislator making the request nor the existence of the request may be revealed to any person without the consent of the legislator. A legislator requesting or receiving an advisory opinion may authorize the release to any other person, the State, or any governmental unit of the request, the recommended advisory opinion, the advisory opinion, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advisory opinions, recommended advisory opinions, advisory opinions issued by the Committee, and any supporting documents are not "public records" as defined in G.S. 132-1."

SECTION 2.(b) G.S. 138A-13 reads as rewritten:

"§ 138A-13. ~~Advisory opinions.~~Request for advice.

(a) At the request of any public servant or legislative employee, any individual who is responsible for the supervision or appointment of ~~a person who is a~~ public servant or legislative employee, legal counsel for any public ~~servant,servant or~~ legislative employee, any ethics liaison under G.S. 138A-14, or any member of the Commission, the Commission shall render advice ~~advisory opinions~~ on specific questions involving the meaning and application of this Chapter and the public servant's or legislative employee's compliance therewith. ~~The request shall be in writing, electronic or otherwise, and~~ Requests for advice and advice rendered in response to those requests shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

(a1) On its own motion, the Commission may render advisory opinions on specific questions involving the meaning and application of this Chapter.

(a2) A request for a formal advisory opinion under subsection (a) of this section shall be in writing, electronic or otherwise. The Commission shall issue formal advisory opinions having prospective application only. A public servant or legislative employee who relies upon the advice provided to that public servant or legislative employee on a specific matter addressed by Reliance upon a the requested written formal advisory opinion on a specific matter shall immunize the public servant or legislative employee, on that matter, shall be immune from all of the following:

- (1) Investigation by the Commission, except for an inquiry under G.S. 138A-12(b)(3).
- (2) Any adverse action by the employing entity.
- (3) Investigation by the Secretary of State.

(b) At the request of a legislator, the Commission shall render ~~recommended advisory opinions~~ advice on specific questions involving the meaning and application of this Chapter and Part 1 of Article 14 of Chapter 120 of the General Statutes, and the legislator's compliance therewith. ~~The request shall be in writing, electronic or otherwise, and~~ Requests for advice and advice rendered in response to those requests shall relate prospectively to real or reasonably anticipated fact settings or circumstances.

(b1) A request by a legislator for a recommended formal advisory opinion shall be in writing, electronic or otherwise. The Commission shall issue recommended formal advisory opinions having prospective application only. Until action is taken by the Committee under G.S. 120-104, a legislator who relies upon the advice provided to that legislator on a specific matter addressed by the requested reliance upon a requested written recommended formal advisory opinion on a specific matter shall immunize the legislator, on that matter, shall be immune from all of the following:

- (1) Investigation by the Committee or Commission, except for an inquiry under G.S. 138A-12(b)(3).
- (2) Any adverse action by the house of which the legislator is a member.
- (3) Investigation by the Secretary of State.

Any recommended formal advisory opinion issued to a legislator under this subsection shall immediately be delivered to the chairs of the Committee, together with a copy of the request. Except for the Lieutenant Governor, the immunity granted under this subsection shall not apply after the time the Committee modifies or overturns the advisory opinion of the Commission in accordance with G.S. 120-104.

(c) Staff to the Commission may issue advice, but not formal or recommended formal advisory opinions, under procedures adopted by the Commission.

(d) The Commission shall publish its formal advisory opinions at least once a year within 30 days of issuance. These formal advisory opinions shall be edited for publication purposes as necessary to protect the identities of the individuals requesting formal advisory opinions. When the Commission issues a recommended formal advisory opinion to a legislator under ~~subsection (b)~~ subsection (b1) of this section, the Commission shall publish only the edited formal advisory opinion of the Committee upon its submission to the Commission within 30 days of receipt of the edited opinion from the Committee.

(e) Except as provided under ~~subsection (d)~~ subsections (b2), (d) and (e1) of this section, requests a request for advice, any advice provided by Commission staff, any formal or recommended formal advisory opinions, any supporting documents submitted or caused to be submitted to the Commission or Commission staff, and any documents prepared or collected by the Commission or Commission staff in connection with a request for advice this section, are confidential and not public records. are confidential. The identity of the individual making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual who requests advice or receives advice, including a formal or recommended formal advisory opinion, may authorize the release

to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1.

(e1) Staff to the Commission may share all information and documents related to requests for advice, made by legislators made under subsection (b) of this section with staff to the Committee, and staff to the Committee shall treat that as Committee. The information and documents in the possession of staff to the Committee are confidential and are not a public record records.

(f) This section shall not apply to judicial officers-officers only for the purpose of advice related to Article 3 of this Chapter.

(g) Requests for advisory opinions-advice may be withdrawn by the requestor at any time prior to the issuance of an advisory opinionthe advice."

SECTION 2.(c) G.S. 120C-102 reads as rewritten:

"§ 120C-102. Advisory opinions.Request for advice.

(a) At the request of any person-person, State agency, or governmental unit affected by this Chapter, the Commission shall render advice-advisory opinions-on specific questions involving the meaning and application of this Chapter and that person's-person's, State agency's, or any governmental unit's compliance therewith. The request shall be in writing and Requests for advice and advice rendered in response to those requests shall relate to real or reasonably anticipated fact settings or circumstances.

(a1) A request for a formal opinion under subsection (a) of this section shall be in writing, electronic or otherwise. The Commission shall issue formal advisory opinions having prospective application only. An individual, State agency, or governmental unit who relies upon the advice provided to that individual, State agency, or governmental unit on a specific matter addressed by Good faith reliance upon a requested written formal advisory opinion on a specific matter shall immunize the designated individual, lobbyist, lobbyist's principal, or other person requesting that written advisory opinion shall be immune from all of the following:

- (1) Investigation by the Commission.
- (2) Any adverse action by the employing entity.
- (3) Investigation by the Secretary of State.

(b) Staff to the Commission may issue advice, but not formal advisory opinions opinions, under procedures adopted by the Commission.

(c) The Commission shall publish its formal advisory opinions at least once-a year, within 30 days of issuance, edited as necessary to protect the identities of the individuals requesting opinions.

(d) Except as provided under subsection-subsections (c) and (d1) of this section, requests for a request for advice, any advice provided by Commission staff, any formal advisory opinions, any supporting documents submitted or caused to be submitted to the Commission or Commission staff, and any documents prepared or collected by the Commission or the Commission staff in connection with a request for advice are confidential.advisory opinions and advisory opinions issued pursuant to this section are confidential and not matters of public record. The identity of the individual, State agency, or governmental unit making the request for advice, the existence of the request, and any information related to the request may not be revealed without the consent of the requestor. An individual, State agency, or governmental unit who requests advice or receives advice, including a formal advisory opinion, may authorize the release to any other person, the State, or any governmental unit of the request, the advice, or any supporting documents.

For purposes of this section, "document" is as defined in G.S. 120-129. Requests for advice, any advice, and any documents related to requests for advice are not "public records" as defined in G.S. 132-1.

(d1) Staff to the Commission may share all information and documents related to requests ~~made under subsection (a) and (a1) of this section~~ with staff of the Office of the Secretary of State, ~~and staff of the Office of the Secretary of State shall treat that State.~~ The information as and documents in the possession of the staff of the Office of the Secretary of State shall remain confidential and not a public record. ~~records.~~ The Commission shall forward an unedited copy of each formal advisory opinion under this section to the Secretary of State at the time the formal advisory opinion is issued to the requestor, and the Secretary of State shall treat that unedited advisory opinion as confidential and not a public record.

(e) Requests for advisory opinions may be withdrawn by the requestor at any time prior to the issuance of ~~an a~~ formal advisory opinion."

SECTION 2.(d) This section is effective January 1, 2007, and applies to requests made on and after that date.

SECTION 3. G.S. 120-103.1(i)(3)b. reads as rewritten:

"b. The hearing shall be ~~legislator~~ open to the public, except for matters that could otherwise be considered in closed session under G.S. 143-318.11, matters involving minors, or matters involving a personnel record. In any event, the deliberations by the Commission on a complaint may be held in closed session."

SECTION 4. G.S. 120C-100(a)(8) reads as rewritten:

"(8) Liaison personnel. – Any State employee, counsel employed under G.S. 147-17, or officer whose principal duties, in practice or as set forth in that ~~person's individual's~~ person's individual's job description, include lobbying ~~designated individuals, legislators or legislative employees.~~"

SECTION 5. G.S. 120C-100(a)(9) reads as rewritten:

"(9) Lobbying. – Any of the following:

- a. Influencing or attempting to influence legislative or executive action, or both, through direct communication or activities with a designated individual or that ~~person's~~ designated individual's immediate family.
- b. Developing goodwill through communications or activities, including the building of relationships, with a designated individual or that ~~person's~~ designated individual's immediate family with the intention of influencing current or future legislative or executive action, or both.

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

SECTION 6. G.S. 120C-100(a)(10)b. reads as rewritten:

"b. Represents another ~~person, person or governmental unit~~, but is not directly employed by that ~~person, person or governmental unit~~, and receives ~~compensation for the purpose of lobbying.~~ payment for services. For the purposes of this sub-subdivision, the term ~~compensation~~ 'payment for services' shall not include reimbursement of actual travel and subsistence."

SECTION 7. G.S. 120C-100(a)(11) reads as rewritten:

"(11) Lobbyist principal and principal. – The person or governmental unit on whose behalf the lobbyist lobbies. In the case where a lobbyist is compensated by a law firm, consulting firm, or other entity retained by a person or governmental unit for lobbying, the principal is the person or governmental unit whose interests the lobbyist represents in lobbying. In the case of a lobbyist employed or retained by an association or other organization, the lobbyist's principal is the

association or other organization, not the individual members of the association or other organization.

The term "lobbyist's principal" shall not include those designating registered liaison personnel under Article 5 of this Chapter."

SECTION 8. G.S. 120C-100(a) is amended by adding a new subdivision to read:

"(11k) Payment for services. – Any money, thing of value, or economic benefit paid to a lobbyist for the purpose of lobbying other than reimbursement of actual travel, administrative expenses, or subsistence."

SECTION 9. G.S. 120C-101(c) and (d) read as rewritten:

"(c) In adopting rules under this Chapter, the Commission is exempt from the requirements of Article 2A of Chapter 150B of the General Statutes, except that the Commission shall ~~maintain a mailing list of interested persons as provided in comply with~~ G.S. 150B-21.2(d). At least 30 business days prior to adopting a rule, the Commission shall:

- (1) Publish the proposed rules in the North Carolina Register.
- (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed rule and the notice of public hearing on the Internet to be posted within five business days.
- (3) Notify ~~persons those~~ on the mailing list maintained in accordance with G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a rule and of the public hearing.
- (4) Accept written comments on the proposed rule for at least 15 business days prior to adoption of the rule.
- (5) Hold at least one public hearing on the proposed rule no less than five days after the rule and notice have been published.

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

(d) For purposes of G.S. 150B-21.3(b2), a written objection filed by the Commission to a rule adopted by the Secretary of State pursuant to this Chapter shall be deemed written objections from 10 or more ~~persons. persons under that statute.~~ Notwithstanding G.S. 150B-21.3(b2), a rule adopted by the Secretary of State pursuant to this Chapter objected to by the Commission under this subsection shall not become effective until an act of the General Assembly approving the rule has become law. If the General Assembly does not approve a rule under this subsection by the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Rules Review Commission approves the rule, the permanent rule shall not become effective and any temporary rule associated with the permanent rule expires. If the General Assembly fails to approve a rule by the day of adjournment, the Secretary of State may initiate rulemaking for a new permanent rule, including by the adoption of a temporary rule."

SECTION 11. G.S. 120C-103(a) reads as rewritten:

"(a) The Commission shall develop and implement a lobbying education and awareness program designed to instill in all designated individuals, lobbyists, and lobbyists' principals a keen and continuing awareness of their obligations and sensitivity to situations that might result in real or potential violation of this Chapter or other related laws. The Commission shall make basic lobbying education and awareness presentations to all designated individuals upon their election, appointment, or hiring and shall offer periodic refresher presentations as the Commission deems appropriate. Every designated individual shall participate in a lobbying presentation approved by the Commission within six months of the person's designated individual's election, appointment, or hiring and shall attend refresher lobbying education presentations at

least every two years thereafter in a manner the Commission deems appropriate. The Commission shall also make lobbying education and awareness programs available to lobbyists and lobbyists' principals. Upon request, the Commission shall assist each agency in developing in-house education programs and procedures necessary or desirable to meet the agency's particular needs for lobbying education."

SECTION 12. G.S. 120C-104 reads as rewritten:

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

For purposes of this Chapter, the term "legislator" as defined in G.S. 120C-100(7) and the term "public servant" as defined in G.S. 138A-3(30)a. shall include ~~a person an individual~~ an individual having filed a notice of candidacy for such office under G.S. 163-106 or Article 11 of Chapter 163 of the General Statutes or nominated under G.S. 163-114 or G.S. 163-98."

SECTION 13. G.S. 120C-200(a) reads as rewritten:

"(a) A lobbyist shall file a separate registration statement for each principal the lobbyist represents with the Secretary of State before engaging in any lobbying. It shall be unlawful for ~~a person an individual~~ to lobby without registering within one business day of engaging in any lobbying as defined in G.S. 120C-100(9) unless exempted by this Chapter."

SECTION 15. G.S. 120C-220(a) reads as rewritten:

"(a) The Secretary of State shall make available as soon as practicable the registrations of the lobbyists and liaison personnel in an electronic, searchable format."

SECTION 16. G.S. 120C-300 reads as rewritten:

"§ 120C-300. Contingency fees prohibited.

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

(b) This section shall not apply to ~~a person an individual~~ doing business with the State who is engaged in sales with respect to that business with the State whose regular ~~compensation remuneration~~ agreement includes commissions based on those sales. For purposes of this subsection, the term 'regular remuneration' means any money, thing of value, or economic benefit conferred on or received by the individual in return for services rendered or to be rendered by that individual or another.

(c) Any ~~compensation paid~~ payment for services to a lobbyist in violation of this section is subject to forfeiture and shall be paid into the Civil Penalty and Forfeiture Fund."

SECTION 17.(a) G.S. 120C-303(a)(2) reads as rewritten:

"(2) Knowingly give a gift to ~~a third party~~ with the intent that a designated individual be the ultimate recipient."

SECTION 17.(b) This section becomes effective December 1, 2008.

SECTION 18. G.S. 120C-303(d) reads as rewritten:

"(d) Gifts made to a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that ~~person's legislator's or legislative employee's~~ public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c)."

SECTION 19. G.S. 120C-303(e) reads as rewritten:

"(e) Gifts made to a nonpartisan state, regional, national, or international organization of which a public servant's agency is a member or a public servant is a member or participant of by virtue of that ~~person's public servant's~~ public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization, shall not constitute a violation of subdivision (a)(2) of this section or of G.S. 138A-32(c)."

SECTION 20. G.S. 120C-304(c) reads as rewritten:

"(c) ~~No person serving as a public servant or former public servant as defined in G.S. 138A-3(30)c. may register as a lobbyist under this Chapter within six months after separation from employment.~~ employment as a public servant."

SECTION 21. G.S. 120C-304(e) reads as rewritten:

"(e) A lobbyist shall not be eligible for appointment by a State official to, or service on, any body created under the laws of this State that has regulatory authority over the activities of a person or governmental unit that the lobbyist currently represents or has represented within 120 days after the expiration of the lobbyist's registration representing that ~~person~~ person or governmental unit. Nothing herein shall be construed to prohibit appointment by any unit of local government."

SECTION 22. G.S. 120C-305 reads as rewritten:

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

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

SECTION 23. G.S. 120C-400 reads as rewritten:

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

(a) For purposes of this Chapter, all reportable expenditures made for the purpose of lobbying shall be reported, including the following:

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

(1a) Reportable expenditures benefiting or made on behalf of a designated individual's immediate family member in the regular course of that immediate family member's employment.

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

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

(b) This section shall not apply to any reportable expenditure of cash, a cash equivalent, or a fixed asset made directly to a State agency ~~and that agency maintains an accounting of the reportable expenditure that is a public record.~~

SECTION 24. G.S. 120C-401(b) reads as rewritten:

"(b) ~~Each~~ For reportable expenditures, each report shall set forth all of the following:

(1) ~~the~~ The fair market value ~~value or face value if shown,~~ shown.

(2) ~~date,~~ The date of the reportable expenditure.

(3) ~~a~~ A description of the reportable expenditure, ~~expenditure.~~

(4) ~~name~~ The name and address of the payee, ~~payee or beneficiary,~~ and beneficiary.

(5) ~~name~~ The name of any designated individual, ~~individual or that person's designated individual's immediate family member~~ member connected with the reportable expenditure.

(b1) For purposes of subdivision (b)(5) of this section, When ~~when~~ more than 15 designated individuals benefit from or request a reportable expenditure, no names of individuals need be reported provided that the report identifies the approximate number of designated individuals benefiting or requesting and the basis for their selection, including the name of the legislative body, committee, caucus, or other group whose membership list is a matter of public record in accordance with G.S. 132-1 or including a description of the group that clearly distinguishes its purpose or composition from the general membership of the General Assembly. The approximate number of immediate

family members of designated individuals who benefited from the reportable expenditure shall be listed separately."

SECTION 25. G.S. 120C-401 is amended by adding a new subsection to read:

"(b2) For purposes of subdivision (b)(5) of this section, when the reportable expenditure is a gift given with the intent that a designated individual be the ultimate recipient and the lobbyist or lobbyist principal does not know the name or names of the designated individuals, the lobbyist or lobbyist principal shall report a description of the designated individuals and those designated individuals' immediate family members connected with the reportable expenditure that clearly distinguishes its purpose or composition, and an approximate number, if known."

SECTION 27. G.S. 120C-402(b)(3) reads as rewritten:

"(3) Reportable expenditures reimbursed by the lobbyist's principal, or another person or governmental unit on the lobbyist's principal's behalf."

SECTION 29.(a) G.S. 120C-403(b) reads as rewritten:

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

- (1) All reportable expenditures made for the purpose of lobbying.
- (2) Solicitation of others when such solicitation involves an aggregate cost of more than three thousand dollars (\$3,000).
- (3) ~~Compensation~~ With respect to each lobbyist registered under G.S. 120C-206, payment for services paid to all lobbyists during the quarter. If a lobbyist is a full-time employee of the principal, or is compensated ~~paid~~ by means of an annual fee or retainer, the principal shall estimate and report the portion of the salary, fee, or retainer that compensates ~~is reasonably allocated for the purpose of lobbying. A lobbyist principal may rely upon a statement by the lobbyist estimating the portion of the salary, fee, or retainer that is reasonably allocated for the purpose of lobbying.~~
- (4) With respect to each lobbyist registered under G.S. 120C-206, Reportable ~~reportable~~ expenditures reimbursed or paid to lobbyists for lobbying that are not reported on the lobbyist's report, with an itemized description of those reportable expenditures.
- (5) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9), 138A-32(e)(11), 138A-32(e)(12), and all gifts given under G.S. 138A-32(e)(10) with a value of more than two hundred dollars (\$200.00)."

SECTION 29.(b) This section is effective January 1, 2007, and applies to reports filed on and after that date.

SECTION 30. G.S. 120C-500(b) reads as rewritten:

"(b) No State ~~funds~~ agency or constitutional officer of the State may be used to contract with persons ~~individuals~~ who are not employed by the State to lobby legislators and legislative employees. This subsection shall not apply to counsel employed by any agency, board, department, or division authorized to employ counsel under G.S. 147-17."

SECTION 31. G.S. 120C-500 is amended by adding a new subsection to read:

"(d) The Chief Justice of the Supreme Court shall designate at least one, but no more than four, liaison personnel to lobby for legislative action for all offices, conferences, commissions, and other agencies established under Chapter 7A of the General Statutes. This subsection shall not apply to any office created under Article 60 of Chapter 7A of the General Statutes, so long as that office complies with subsection (a) of this section."

SECTION 32. G.S. 120C-500(c) reads as rewritten:

"(c) No more than two ~~persons~~ individuals may be designated as liaison personnel for each agency and constitutional officers of the State, including all boards, departments, divisions, constituent institutions of The University of North Carolina, community colleges, and other units of government in the executive branch."

SECTION 33. G.S. 120C-501(e) reads as rewritten:

"(e) The Board of Governors of the University of North Carolina ~~or any of~~ and its constituent institutions, or designated the liaison personnel designated by that board or the constituent institutions, of those persons, shall not give, for the purpose of lobbying, athletic tickets to any designated individual, except for those who are described in G.S. 138A-3(30)j. or those who are students and receive tickets on the same basis as other students."

SECTION 34. G.S. 120C-600(c) reads as rewritten:

"(c) Complaints of violations of Articles 2, 4, and 8 of this ~~Chapter and Chapter~~, all other records accumulated in conjunction with the investigation of these ~~complaints~~ complaints, and any records accumulated in the performance of a systematic review shall be considered confidential records and may be released only by order of a court of competent jurisdiction. records of criminal investigations under G.S. 132-1.4. Any information obtained by the Secretary of State from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation or systematic review shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization."

SECTION 35. G.S. 120C-601(c) reads as rewritten:

"(c) Complaints of violations of this Chapter and all other records accumulated in conjunction with the investigation of these complaints shall be considered ~~records of criminal investigations under G.S. 132-1~~ confidential records and may be released only by order of a court of competent jurisdiction. Any information obtained by the Commission from any law enforcement agency, administrative agency, or regulatory organization on a confidential or otherwise restricted basis in the course of an investigation shall be confidential and exempt from G.S. 132-6 to the same extent that it is confidential in the possession of the providing agency or organization."

SECTION 36. G.S. 120C-603 reads as rewritten:

"§ 120C-603. Enforcement by district attorney and Attorney General.

(a) The Commission or the Secretary of State, as appropriate, may investigate complaints of violations of this Chapter and shall report apparent violations of this Chapter to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Chapter.

(b) Complaints of violations of this Chapter involving the Commission or any member employee of the Commission shall be referred to the Attorney General for investigation. The Attorney General shall, upon receipt of a complaint, make an appropriate investigation thereof, and the Attorney General shall forward a copy of the investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person or governmental unit who violates any provisions of this Chapter."

SECTION 37. G.S. 120C-800(c) reads as rewritten:

"(c) If a designated individual accepts a scholarship related to that ~~person's~~ designated individual's public service or position valued over two hundred dollars (\$200.00) from a person, or group of persons, acting together, exempted or not covered by this Chapter, the person, or group of persons, granting the scholarship shall report the date of the scholarship, a description of the event involved, the name and address of the person, or group of persons, granting the scholarship, the name of the designated individual accepting the scholarship, and the estimated fair market value."

SECTION 38.(a) G.S. 120C-800(e) reads as rewritten:

- "(e) This section shall not apply to any of the following:
- (1) Lawful campaign contributions properly received and reported as required under Article 22A of Chapter 163 of the General Statutes.
 - (2) Any ~~gift-reportable expenditure from an~~ a designated individual's extended family member to a designated individual.
 - (3) ~~Gifts-Reportable expenditures~~ associated primarily with the designated individual's employment or that person's designated individual's immediate family member's employment.
 - (4) ~~Gifts, Reportable expenditures,~~ other than food, beverages, travel, and lodging, which are received from a person who is a citizen of a country other than the United States or a state other than North Carolina and given during a ceremonial presentation or as a custom.
 - (5) A thing of value that is paid for by the State.
 - (6) A scholarship paid for by a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or a legislator or legislative employee is a member or participant of by virtue of that legislator's or legislative employee's public position, or to an affiliated organization of that nonpartisan state, regional, national, or international organization."

SECTION 38.(b) This section becomes effective on or after January 1, 2007, and applies to scholarships received on or after that date.

SECTION 39. G.S. 120C-800(g) reads as rewritten:

"(g) For purposes of this section, the term "scholarship" shall mean a grant-in-aid to attend a conference, meeting, or other similar event. For purposes of this section only, the term "person" shall include all persons as defined in G.S. 138A-3(27) and all governmental units as defined in G.S. 138A-3(15d)."

SECTION 40. G.S. 138A-3(3) reads as rewritten:

- "(3) Business with which associated. – A business in which the covered person or filing person or any member of ~~the person's~~ that covered person's or filing person's immediate family does any of the following:
- a. Is an employee.
 - b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.
 - c. Owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.
 - d. Is a lobbyist registered under Chapter 120C of the General Statutes.

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

- ~~a.1.~~ 1. The ~~covered person~~ person, filing person, or a member of the covered person's or filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
- ~~b.2.~~ 2. The fund is publicly traded, or the fund's assets are widely diversified."

SECTION 41. G.S. 138A-3(6) reads as rewritten:

- "(6) Compensation. – Any money, thing of value, or economic benefit conferred on or received by any covered person or filing person in return for services rendered or to be rendered by that covered person or

filing person or another. This term does not include campaign contributions properly received and, reported as required by Article 22A of Chapter 163 of the General Statutes."

SECTION 42. G.S. 138A-3(13) reads as rewritten:

"(13) Extended family. – Spouse, lineal descendant, lineal ascendant, sibling, spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, and the spouse of any of these ~~persons~~individuals."

SECTION 43. G.S. 138A-3(14) reads as rewritten:

"(14) Filing person. – ~~A person~~An individual required to file a statement of economic interest under G.S. 138A-22."

SECTION 44. G.S. 138A-3 is amended by adding a new subdivision to

read:

"(15d) Governmental unit. – A political subdivision of the State, and any other entity or organization created by a political subdivision of the State."

SECTION 45. G.S. 138A-3(18) reads as rewritten:

"(18) Judicial employee. – The director and assistant director of the Administrative Office of the Courts and any other ~~person~~individual, designated by the Chief Justice, employed in the Judicial Department whose annual compensation from the State is sixty thousand dollars (\$60,000) or more."

SECTION 46. G.S. 138A-3(19) reads as rewritten:

"(19) Judicial officer. – Justice or judge of the General Court of Justice, district attorney, clerk of court, or any ~~person~~individual elected or appointed to any of these positions prior to taking office."

SECTION 47. G.S. 138A-3(22) reads as rewritten:

"(22) Legislator. – A member or presiding officer of the General Assembly, or a ~~person~~an individual elected or appointed a member or presiding officer of the General Assembly before taking office."

SECTION 48. G.S. 138A-3(24) reads as rewritten:

"(24) Nonprofit corporation or organization with which associated. – Any not for profit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the ~~covered person~~covered person, filing person, or any member of the covered person's or filing person's immediate family is a director, officer, governing board member, employee, lobbyist registered as under Chapter 120C of the General Statutes, or independent contractor. Nonprofit corporation or organization with which associated shall not include any board, entity, or other organization created by this State or by any political subdivision of this State."

SECTION 49. G.S. 138A-3(29) is repealed.

SECTION 50. G.S. 138A-3(30)a. reads as rewritten:

"a. Constitutional officers of the State and ~~persons~~individuals elected or appointed as constitutional officers of the State prior to taking office."

SECTION 51. G.S. 138A-3(30)d. reads as rewritten:

"d. The chief deputy and chief administrative assistant of each ~~person~~individual designated under sub-subdivision a. or c. of this subdivision."

SECTION 52. G.S. 138A-3(30)e. reads as rewritten:

"e. Confidential assistants and secretaries as defined in G.S. 126-5(c)(2), to ~~persons~~individuals designated under sub-subdivision a., c., or d. of this subdivision."

SECTION 53. G.S. 138A-3(30)m. reads as rewritten:

"m. ~~Persons-Individuals~~ under contract with the State working in or against a position included under this subdivision."

SECTION 54. G.S. 138A-3 is amended by adding a new subdivision to

read:

"(30k) State agency. – An agency in the executive branch of the government of this State, including the Governor's Office, a board, a department, a division, and any other unit of government in the executive branch."

SECTION 55. G.S. 138A-10(a)(3)b. reads as rewritten:

"b. The names of ~~persons-individuals~~ subject to this Chapter as covered persons and legislative employees under G.S. 138A-11."

SECTION 56. G.S. 138A-11 reads as rewritten:

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

The Commission shall identify and publish at least quarterly a listing of the names and positions of all ~~persons-individuals~~ subject to this Chapter as covered persons or legislative employees. The Commission shall also identify and publish at least annually a listing of all boards to which this Chapter applies. This listing may be published electronically on a public Internet Web site maintained by the Commission."

SECTION 57. G.S. 138A-12 reads as rewritten:

"§ 138A-12. Inquiries by the Commission.

...
(a1) Notice of Allegation. – Upon receipt by the Commission of an written allegation of unethical conduct by a covered person or legislative employee, or the initiation by the Commission of an inquiry into unethical conduct under subsection (b) of this section, the Commission shall immediately notify the covered person or legislative employee subject to the allegation or inquiry in writing.

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

- (1) The application or alleged violation of this Chapter.
- (2) For legislators, the application of alleged violations of Part 1 of Article 14 of Chapter 120 of the General Statutes.
- (3) An alleged violation of the criminal law by a covered person in the performance of that individual's official duties.
- (4) An alleged violation of G.S. 126-14.

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

(c) Complaint. –

- (1) A sworn complaint filed under this Chapter shall state the name, address, and telephone number of the ~~person-individual~~ filing the complaint, the name and job title or appointive position of the covered person or legislative employee against whom the complaint is filed, and a concise statement of the nature of the complaint and specific facts indicating that a violation of this Chapter or Chapter 120 of the General Statutes has occurred, the date the alleged violation occurred, and either (i) that the contents of the complaint are within the knowledge of the individual verifying the complaint, or (ii) the basis upon which the individual verifying the complaint believes the allegations to be true.
- (2) Except as provided in subsection (d) of this section, a complaint filed under this Chapter must be filed within two years of the date the

complainant knew or should have known of the conduct upon which the complaint is based.

- (3) The Commission may decline to accept, refer, or conduct an inquiry into any complaint that does not meet all of the requirements set forth in subdivision (1) of this subsection, or the Commission may, in its sole discretion, request additional information to be provided by the complainant within a specified period of time of no less than seven business days.
- (4) In addition to subdivision (3) of this subsection, the Commission may decline to accept, refer, or conduct an inquiry into a complaint if it determines that any of the following apply:
 - a. The complaint is frivolous or brought in bad faith.
 - b. The ~~individuals~~ covered person or legislative employee and conduct complained of have already been the subject of a prior complaint.
 - c. The conduct complained of is primarily a matter more appropriately and adequately addressed and handled by other federal, State, or local agencies or authorities, including law enforcement authorities. If other agencies or authorities are conducting an investigation of the same actions or conduct involved in a complaint filed under this section, the Commission may stay its complaint inquiry pending final resolution of the other investigation.
- (5) The Commission shall send a copy of the complaint to the covered person or legislative employee who is the subject of the complaint and the employing entity, within 30 days of the filing.

...
(f) Dismissal of Complaint After Preliminary Inquiry. – If the Commission determines at the end of its preliminary inquiry that (i) the individual who is the subject of the complaint is not a covered person or legislative employee subject to the Commission's jurisdiction and authority under this Chapter, or (ii) the complaint does not allege facts sufficient to constitute a violation within the jurisdiction of the Commission under subsection (b) ~~if of~~ this section, the Commission shall dismiss the complaint.

...
(l) Notice of Dismissal. – Upon the dismissal of a complaint under this section, the Commission shall provide written notice of the dismissal to the individual who filed the complaint and the covered person or legislative employee against whom the complaint was filed. The Commission shall forward copies of complaints and notices of dismissal of complaints against legislators to the Committee, against legislative employees to the employing entity for legislative employees, and against judicial officers to the Judicial Standards Commission for complaints against justices and judges, and the senior resident superior court judge of the district or county for complaints against district attorneys, or the chief district court judge of the district or county for complaints against clerks of court.

...
(q) Continuing Jurisdiction. – The Commission shall have continuing jurisdiction to investigate possible criminal violations of this Chapter for a period of one year following the date ~~a person, an individual,~~ who was formerly a public servant or legislative employee, ceases to be a public servant or legislative employee for any investigation that commenced prior to the date the public servant or legislative employee ceases to be a public servant or legislative employee.

(r) Subpoena Authority. – The Commission may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of alleged violations of this Chapter. The court shall

authorize subpoenas under this subsection when the court determines the subpoenas are necessary for the enforcement of this Chapter. Subpoenas issued under this subsection shall be enforceable by the court through contempt powers. Venue shall be with the Superior Court of Wake County for any person or governmental unit covered by this Chapter, and personal jurisdiction may be asserted under G.S. 1-75.4.

....

SECTION 59. G.S. 138A-14(b) reads as rewritten:

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

SECTION 60. G.S. 138A-14(c) reads as rewritten:

"(c) The Commission, jointly with the Committee, shall make basic ethics education and awareness presentations to all legislators and legislative employees upon their election, reelection, appointment, or employment and shall offer periodic refresher presentations as the Commission and the Committee deem appropriate. Every legislator and legislative employee shall participate in an ethics presentation approved by the Commission and Committee within three months of the ~~person's~~ legislator or legislative employee's election, reelection, appointment, or employment, and every legislative employee shall attend refresher ethics education presentations at least every two years thereafter, in a manner as the Commission and Committee deem appropriate."

SECTION 61. G.S. 138A-15(b) reads as rewritten:

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

SECTION 62. G.S. 138A-15(d) reads as rewritten:

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

SECTION 63. G.S. 138A-21 reads as rewritten:

"§ 138A-21. Purpose.

The purpose of disclosure of the financial and personal interests by covered persons is to assist covered persons and those ~~persons~~ who appoint, elect, hire, supervise, or advise them identify and avoid conflicts of interest and potential conflicts of interest between the covered person's private interests and the covered person's public duties. It is critical to this process that current and prospective covered persons examine, evaluate, and disclose those personal and financial interests that could be or cause a conflict of interest or potential conflict of interest between the covered person's private interests and the covered person's public duties. Covered persons must take an active, thorough, and conscientious role in the disclosure and review process, including having a complete knowledge of how the covered person's public position or duties might

impact the covered person's private interests. Covered persons have an affirmative duty to provide any and all information that a reasonable person would conclude is necessary to carry out the purposes of this Chapter and to fully disclose any conflict of interest or potential conflict of interest between the covered person's public and private interests, but the disclosure, review, and evaluation process is not intended to result in the disclosure of unnecessary or irrelevant personal information."

SECTION 64. G.S. 138A-22 reads as rewritten:

"§ 138A-22. Statement of economic interest; filing required.

(a) Every covered person subject to this Chapter who is elected, appointed, or employed, including one appointed to fill a vacancy in elective office, except for public servants included under G.S. 138A-3(30)b., e., f., or g. whose annual compensation from the State is less than sixty thousand dollars (\$60,000), shall file a statement of economic interest with the Commission prior to the covered person's initial appointment, election, or employment and no later than April 15 of every year thereafter, except as otherwise filed under subsections (c1) and (d) of this section. A prospective covered person required to file a statement under this Chapter shall not be appointed, employed, or receive a certificate of election, prior to submission by the Commission of the Commission's evaluation of the statement in accordance with this Article. The requirement for an annual filing under this subsection also shall apply to covered persons whose terms have expired but who continue to serve until the covered person's replacement is appointed. Once a statement of economic interest is properly completed and filed under this Article, the statement of economic interest does not need to be supplemented or refiled prior to the next due date set forth in this subsection.

(b) Notwithstanding subsection (a) of this section, ~~persons~~individuals hired by, and appointees of, constitutional officers of the State may file a statement of economic interest within 30 days after their appointments or employment when the appointment or employment is made during the first 60 days of the constitutional officer's initial term in that constitutional office.

...

(d) A candidate for an office subject to this Article shall file the statement of economic interest at the same place and in the same manner as the notice of candidacy for that office is required to be filed under G.S. 163-106 or G.S. 163-323 within 10 days of the filing deadline for the office the candidate seeks. ~~A person~~An individual who is nominated under G.S. 163-114 after the primary and before the general election, and a ~~person~~an individual who qualifies under G.S. 163-122 as an unaffiliated candidate in a general election, shall file a statement of economic interest with the county board of elections of each county in the senatorial or representative district. ~~A person~~An individual nominated under G.S. 163-114 shall file the statement within three days following the ~~person's~~individual's nomination, or not later than the day preceding the general election, whichever occurs first. ~~A person~~An individual seeking to qualify as an unaffiliated candidate under G.S. 163-122 shall file the statement of economic interest with the petition filed under that section. ~~A person~~An individual seeking to have write-in votes counted for ~~the person~~that individual in a general election shall file a statement of economic interest at the same time the candidate files a declaration of intent under G.S. 163-123. A candidate of a new party chosen by convention shall file a statement of economic interest at the same time that the president of the convention certifies the names of its candidates to the State Board of Elections under G.S. 163-98.

...."

SECTION 65. G.S. 138A-23(b) reads as rewritten:

"(b) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for ~~persons~~individuals elected by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the election and made available to all members of the General Assembly. The statements of economic interest filed by public servants elected to positions by the General Assembly, and written evaluations by the

Commission of those statements, are not public records until the prospective public servant is sworn into office."

SECTION 66. G.S. 138A-23(c) reads as rewritten:

"(c) The statements of economic interest filed by prospective public servants, and the written evaluations by the Commission of those statements, for ~~persons~~individuals confirmed for appointment as a public servant by the General Assembly shall be provided to the chair of the standing committee handling the legislation regarding the appointment. The statements of economic interest filed by prospective public servants for confirmation for appointment by the General Assembly, and written evaluations by the Commission of those statements, are public records at the time of the announcement of the appointment."

SECTION 67. G.S. 138A-24(a)(1) reads as rewritten:

"(1) Except as otherwise provided in this subdivision, the name, current mailing address, occupation, employer, and business of the filing person. Any ~~person~~individual holding or seeking elected office for which residence is a qualification for office shall include a home address. A judicial officer may use a current mailing address instead of the home address on the form required in this subsection. The judicial officer may also use the initials instead of the name of any unemancipated child of the judicial officer who also resides in the household of the judicial officer. If the judicial officer provides the initials of an unemancipated child, the judicial officer shall concurrently provide the name of the unemancipated child to the Commission. The name of an unemancipated child provided by the judicial officer to the Commission shall not be a public record under Chapter 132 of the General Statutes and is privileged and confidential."

SECTION 68. G.S. 138A-24(a)(2)h. reads as rewritten:

"h. A list of all nonpublicly owned businesses of which the filing person and the filing person's immediate family is an officer, employee, director, partner, owner, or member or manager of a limited liability company."

SECTION 69. G.S. 138A-24(a)(6) reads as rewritten:

"(6) An indication of whether the filing person, the filing person's employer, a member of the filing person's immediate family, or the immediate family member's employer is licensed or regulated by, or has a business relationship with, the board or employing entity with which the filing person is or will be associated. This subdivision does not apply to a ~~legislator or a judicial officer~~legislator, a judicial officer, or that legislator's or judicial officer's immediate family."

SECTION 70. G.S. 138A-24(a)(7) reads as rewritten:

"(7) A list of societies, organizations, or advocacy groups, pertaining to subject matter areas over which the public servant's agency or board may have jurisdiction, in which the public servant or a member of the public servant's immediate family is a director, officer, or governing board member. This subdivision does not apply to a legislator, a judicial officer, or that ~~person's~~legislator's or judicial officer's immediate family."

SECTION 71. G.S. 138A-24(a)(8) reads as rewritten:

"(8) A list of all things with a total value of over two hundred dollars (\$200.00) per calendar quarter given and received without valuable consideration and under circumstances that a reasonable person would conclude that the thing was given for the purpose of lobbying, if such things were given by a person not required to report under Chapter 120C of the General Statutes, excluding things given by a member of

the filing person's extended family. The list shall include only those things received during the 12 months preceding the reporting period under subsection (d) of this section, and shall include the source of those things. The list required by this subdivision shall not apply to things of monetary value received by the filing person prior to the time the filing person filed or was nominated as a candidate for office, as described in G.S. 138A-22, or was appointed or employed as a covered person."

SECTION 72.(a) G.S. 138A-24(a)(10) reads as rewritten:

"(10) Any other ~~economic or financial~~ information that the filing person believes may assist the Commission in advising the filing person with regards to compliance with this Chapter. ~~is necessary either to carry out the purposes of this Chapter or to fully disclose any conflict of interest or potential conflict of interest. If the filing person believes a potential for conflict exists, the filing person has a duty to inquire of the Commission as to that potential conflict. If a filing person is uncertain of whether particular information is necessary, then the filing person shall consult the Commission for guidance.~~"

SECTION 72.(b) This section becomes effective on and after January 1, 2007, and applies to statements of economic interest filed on or after that date.

SECTION 73. G.S. 138A-24(b) reads as rewritten:

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

SECTION 74. G.S. 138A-24(e) reads as rewritten:

"(e) The Commission shall prepare a written evaluation of each statement of economic interest relative to conflicts of interest and potential conflicts of interest. This subsection does not apply to statements of economic interest of legislators and judicial officers. The Commission shall submit the evaluation to all of the following:

- (1) The filing person who submitted the statement.
- (2) The head of the agency in which the filing person serves.
- (3) The Governor for gubernatorial appointees and employees in agencies under the Governor's authority.
- ~~(4) The Chief Justice for judicial officers and judicial employees.~~
- (5) The appointing or hiring authority for those public servants not under the Governor's authority.
- (6) The State Board of Elections for those filing persons who are elected.
- ~~(7) The Committee, together with a copy of the statement of economic interest, for legislators."~~

SECTION 74.5. G.S. 138A-24 is amended by adding a new subsection to read:

"(f) The Commission shall prepare a written evaluation of each statement of economic interest for nominees of the Board of Governors of The University of North Carolina elected pursuant to G.S. 116-6, and nominees of the State Board of Community Colleges elected pursuant to G.S. 115D-2 within seven days of the submission of the completed statement of economic interest to the Commission."

SECTION 75. G.S. 138A-25(a) reads as rewritten:

"(a) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify filing persons who have failed to file or filing persons whose statement has been

deemed incomplete. For a filing person currently serving as a covered person, the Commission shall notify the filing person that if the statement of economic interest is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be subject to a fine as provided for in this section."

SECTION 77.(a) G.S. 138A-32(c) reads as rewritten:

"(c) No public servant, legislator, or legislative employee shall knowingly accept a gift from a lobbyist or lobbyist principal registered under Chapter 120C of the General Statutes. No legislator or legislative employee shall knowingly accept a gift from liaison personnel designated under Chapter 120C of the General Statutes. No public servant, legislator, or legislative employee shall accept a gift ~~from a third party~~ knowing all of the following:

- (1) ~~The third party obtained the gift~~ was obtained indirectly from a lobbyist or lobbyist principal lobbyist, lobbyist's principal, or liaison personnel registered under Chapter 120C of the General Statutes.
- (2) ~~The lobbyist or lobbyist principal lobbyist, lobbyist principal, or liaison personnel~~ registered under Chapter 120C of the General Statutes intended for the ultimate recipient of the gift to be a public servant, legislator, or legislative employee as provided in G.S. 120C-303."

SECTION 77.(b) This section becomes effective December 1, 2008.

SECTION 78.(a) G.S. 138A-32(d1) reads as rewritten:

"(d1) No public servant shall accept a gift ~~from a third party~~ knowing all of the following:

- (1) ~~The third party obtained the gift~~ was obtained indirectly from a person described under subdivisions (d)(1), (2), and (3) of this section.
- (2) The person described under subdivisions (d)(1), (2), and (3) of this section intended for the ultimate recipient of the gift to benefit the ~~be~~ a public servant."

SECTION 78.(b) This section becomes effective December 1, 2008.

SECTION 79. G.S. 138A-32(e)(1) reads as rewritten:

"(1) Food and beverages for immediate consumption in connection with ~~public events~~ any of the following:

- a. An open meeting of a public body, provided that the open meeting is properly noticed under Article 33C of Chapter 143 of the General Statutes.
- b. A gathering of an organization with at least 10 or more individuals in attendance open to the general public, provided that a sign or other communication containing a message that is reasonably designed to convey to the general public that the gathering is open to the general public is displayed at the gathering.
- c. A gathering of a person or governmental unit to which the entire board of which a public servant is a member, at least 10 public servants, all the members of the House of Representatives, all the members of the Senate, all the members of a county or municipal legislative delegation, all the members of a recognized legislative caucus with regular meetings other than meetings with one or more lobbyists, all the members of a committee, a standing subcommittee, a joint committee or joint commission of the House of Representatives, the Senate, or the General Assembly, or all legislative employees are invited, and one of the following applies:
 1. At least 10 individuals associated with the person or governmental unit actually attend, other than the covered person or legislative employee, or the immediate family of the covered person or legislative employee.

2. All shareholders, employees, board members, officers, members, or subscribers of the person or governmental unit located in North Carolina are notified and invited to attend.

For purposes of this sub-subdivision only, the term "invited" shall mean written notice from at least one host or sponsor of the gathering containing the date, time, and location of the gathering given at least 24 hours in advance of the gathering to the specific qualifying group listed in this sub-subdivision. If it is known at the time of the written notice that at least one sponsor is a lobbyist or lobbyist principal, the written notice shall also state whether or not the gathering is permitted under this section."

SECTION 80. G.S. 138A-32(e)(3) reads as rewritten:

- "(3) Reasonable actual expenditures of the legislator, public servant, or legislative employee for food, beverages, registration, travel, lodging, other incidental items of nominal value, and entertainment, in connection with (i) a legislator's, public servant's, or legislative employee's attendance at an educational meeting for purposes primarily related to the public duties and responsibilities of the legislator, public servant, or legislative employee; (ii) a legislator's, public servant's, or legislative employee's participation as a speaker or member of a panel at a meeting; (iii) a legislator's or legislative employee's attendance and participation in meetings of a nonpartisan state, regional, national, or international legislative organization of which the General Assembly is a member or that the legislator or legislative employee is a member or participant of by virtue of that ~~person's~~ legislator's or legislative employee's public position, or as a member of a board, agency, or committee of such organization; or (iv) a public servant's attendance and participation in meetings as a member of a board, agency, or committee of a nonpartisan state, regional, national, or international organization of which the public servant's agency is a member or the public servant is a member by virtue of that ~~person's~~ public servant's public position, provided the following conditions are met:
- a. The reasonable actual expenditures shall be made by a lobbyist's principal, and not a lobbyist.
 - b. Any meeting must be attended by at least 10 or more participants, have a formal agenda, and notice of the meeting has been given at least 10 days in advance.
 - c. Any food, beverages, transportation, or entertainment must be provided to all attendees or defined groups of 10 or more attendees as part of the meeting or in conjunction with the meeting.
 - d. Any entertainment must be incidental to the principal agenda of the meeting.
 - e. If the legislator, public servant, or legislative employee is participating as a speaker or member of a panel, then that legislator, public servant, or legislative employee must be a bona fide speaker or participant."

SECTION 80.5. G.S. 138A-32(e)(5) reads as rewritten:

- "(5) Gifts accepted on behalf of the State for use by the State or for the benefit of the State."

SECTION 81. G.S. 138A-32(e)(10)a. reads as rewritten:

"a. The relationship is not related to the ~~person's public servant's, legislator's, or legislative employee's~~ public service or position."

SECTION 82. G.S. 138A-32(e)(12) reads as rewritten:

"(12) Food and beverages for immediate consumption at an organized gathering of a ~~person-person, the State, or a governmental unit~~ to which a public servant is invited to attend for purposes primarily related to the public servant's public service or position, and to which at least 10 individuals, other than the public servant, or the public servant's immediate family, actually attend, or to which all shareholders, employees, board members, officers, members, or subscribers of the ~~person or governmental unit~~ who are located in a specific North Carolina office or county are notified and invited to attend."

SECTION 83. G.S. 138A-34 reads as rewritten:

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

A public servant or legislative employee shall not use or disclose nonpublic information gained in the course of, or by reason of, the public servant's or legislative employee's official responsibilities in a way that would affect a personal financial interest of the public servant or legislative employee, a member of the public servant's or legislative employee's extended family, or a ~~person or governmental unit~~ with whom or business with which the public servant or legislative employee is associated. A public servant or legislative employee shall not improperly use or improperly disclose any confidential information."

SECTION 84.(a) G.S. 138A-36 reads as rewritten:

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

(a) Except as permitted by subsection (d) of this section and under G.S. 138A-38, no public servant acting in that capacity, authorized to perform an official action requiring the exercise of discretion, shall ~~knowingly~~ participate in an official action by the employing entity if the public servant, ~~a member of the public servant's extended family, a business with which the public servant is associated, or a nonprofit corporation or organization with which the public servant is associated,~~ has an economic interest in, or servant knows the public servant or a person with which the public servant is associated may incur a reasonably foreseeable financial benefit from, from the matter under consideration, which financial benefit would impair the public servant's independence of judgment or from which it could reasonably be inferred that the ~~interest or financial~~ benefit would influence the public servant's participation in the official action. ~~A potential benefit includes an economic or financial detriment to a business competitor of (i) the public servant, (ii) a member of the public servant's extended family, (iii) a business with which the public servant is associated, or (iv) a nonprofit corporation or organization with which the public servant is associated. A benefit also includes an economic or financial detriment to (i) the public servant, (ii) a member of the public servant's extended family, (iii) a business with which the public servant is associated, or (iv) a nonprofit corporation or organization with which the public servant is associated.~~

(d) If a public servant is uncertain about whether the relationship described in subsection (c) of this section justifies removing the public servant from the proceeding under subsection (c) of this section, the public servant shall disclose the relationship to the ~~person-individual~~ presiding over the proceeding and seek appropriate guidance. The presiding officer, in consultation with legal counsel if necessary, shall then determine the extent to which the public servant will be permitted to participate. If the affected public servant is the ~~person-individual~~ presiding, then the vice-chair or any other substitute presiding officer shall make the determination. A good-faith determination under this subsection of the allowable degree of participation by a public servant is presumptively valid and only subject to review under G.S. 138A-12 upon a clear and

convincing showing of mistake, fraud, abuse of discretion, or willful disregard of this Chapter.

...."

SECTION 84.(b) G.S. 138A-37 reads as rewritten:

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

(a) Except as permitted under G.S. 138A-38, no legislator shall knowingly participate in a legislative action if the ~~legislator, a member of the legislator's extended family, the legislator's client, a business with which the legislator is associated, or a nonprofit corporation or organization with which the legislator is associated,~~ has an economic interest in, or legislator knows the legislator or a person with which the legislator is associated may incur a reasonably and foreseeably foreseeable financial benefit from the action, and if after considering whether the legislator's judgment would be substantially influenced by the ~~interest~~ financial benefit and considering the need for the legislator's particular contribution, including special knowledge of the subject matter to the effective functioning of the legislature, the legislator concludes that an actual ~~economic interest~~ financial benefit does exist which would impair the legislator's independence of judgment. A ~~potential benefit includes an economic or financial detriment to a business competitor of (i) the legislator, (ii) a member of the legislator's extended family, (iii) a business with which the legislator is associated, or (iv) a nonprofit corporation or organization with which the legislator is associated.~~ A benefit also includes an economic or financial detriment to (i) the legislator, (ii) a member of the legislator's extended family, (iii) a business with which the legislator is associated, or (iv) a nonprofit corporation or organization with which the legislator is associated.

(a1) The legislator shall submit in writing to the principal clerk of the house of which the legislator is a member the reasons for the abstention from participation in the legislative matter.

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

SECTION 84.(c) G.S. 138A-3 reads as rewritten:

"§ 138A-3. Definitions.

The following definitions apply in this Chapter:

~~(11) Economic interest. — Matters involving a business with which associated or a nonprofit corporation or organization with which associated.~~

~~(14c) Financial benefit. — A direct pecuniary gain or loss to the legislator, the public servant, or a person with which the legislator or public servant is associated, or a direct pecuniary loss to a business competitor of the legislator, the public servant, or a person with which the legislator or public servant is associated.~~

~~(27c) Person with which the legislator is associated. — Any of the following:~~
~~a. A member of the legislator's extended family.~~
~~b. A client of the legislator.~~
~~c. A business with which the legislator or a member of the legislator's immediate family is associated.~~
~~d. A nonprofit corporation or association with which the legislator or a member of the legislator's immediate family is associated.~~
~~e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the legislator or a member of the legislator's immediate family.~~

(27d) Person with which the public servant is associated. – Any of the following:

- a. A member of the public servant's extended family.
- b. A client of the public servant.
- c. A business with which the public servant or a member of the public servant's immediate family is associated.
- d. A nonprofit corporation or association with which the public servant or a member of the public servant's immediate family is associated.
- e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the public servant or a member of the public servant's immediate family.

...."
SECTION 85. G.S. 138A-38 is amended by adding the following new subsections to read:

"(c) Notwithstanding G.S. 138A-37, if a legislator is employed or retained by, or is an independent contractor of, a governmental unit, and the legislator is the only member of the house elected from the district where that governmental unit is located, then the legislator may take legislative action on behalf of that governmental unit provided the legislator discloses in writing to the principal clerk the nature of the relationship with the governmental unit prior to, or at the time of, taking the legislative action.

(d) Notwithstanding G.S. 138A-36, service by the president, chief financial officer, chief administrative officer, or voting member of the board of trustees of a community college as an officer, employee, or member of the board of directors of a nonprofit corporation established under G.S. 115D-20(9) to support the community college shall not constitute a conflict of interest under G.S. 138A-36, provided that the majority of the nonprofit corporation's board of directors is not comprised of the president, chief financial officer, and chief administrative officer, or voting members of the board of trustees of the community college which the nonprofit corporation was created to support."

SECTION 86. G.S. 163-278.13C(a)(2) reads as rewritten:

"(2) Is a public servant as defined in ~~G.S. 138A-3(30)a.~~ G.S. 138A-3(30)a. and G.S. 120C-104."

SECTION 87. G.S. 163-278.16B(a)(3) reads as rewritten:

"(3) ~~Contributions~~ Donations to an organization described in section 170(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 170(c)), provided that the candidate or the candidate's spouse, children, parents, brothers, or sisters are not employed by the organization."

SECTION 88. G.S. 114-15(a) reads as rewritten:

"(a) The Bureau shall, through its Director and upon request of the Governor, investigate and prepare evidence in the event of any lynching or mob violence in the State; shall investigate all cases arising from frauds in connection with elections when requested to do so by the Board of Elections, and when so directed by the Governor. Such investigation, however, shall in no wise interfere with the power of the Attorney General to make such investigation as ~~he~~ the Attorney General is authorized to make under the laws of the State. The Bureau is authorized further, at the request of the Governor, to investigate cases of frauds arising under the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and matters of similar kind when called upon by the Governor so to do. In all such cases it shall be the duty of the Department to keep such records as may be necessary and to prepare evidence in the cases investigated, for the use of enforcement officers and for the trial of causes. The services of the Director of the Bureau, and of ~~his~~ the Director's assistants, may be

required by the Governor in connection with the investigation of any crime committed anywhere in the State when called upon by the enforcement officers of the State, and when, in the judgment of the Governor, such services may be rendered with advantage to the enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to investigate without request the attempted arson of, or arson of, damage of, theft from, or theft of, or misuse of, any State-owned personal property, buildings, or other real property or any assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1). The Bureau also is authorized at the request of the Governor to conduct a background investigation on a person that the Governor plans to nominate for a position that must be confirmed by the General Assembly, the Senate, or the House of Representatives. The background investigation of the proposed nominee shall be limited to an investigation of the person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject to ~~Executive Order Number 1, filed on January 31, 1985, as contained on pages 1405 through 1419 of the 1985 Session Laws (First Session, 1985). Chapter 138A of the General Statutes.~~ The Governor must give the person being investigated written notice that ~~he the Governor~~ intends to request a background investigation at least 10 days prior to the date that ~~he the Governor~~ requests the State Bureau of Investigation to conduct the background investigation. The written notice shall be sent by regular mail, and there is created a rebuttable presumption that the person received the notice if the Governor has a copy of the notice."

SECTION 89. G.S. 120-19.4A reads as rewritten:

"§ 120-19.4A. Requests to State Bureau of Investigation for background investigation of a person who must be confirmed by legislative action.

The President of the Senate or the Speaker of the House may request that the State Bureau of Investigation perform a background investigation on a person who must be appointed or confirmed by the General Assembly, the Senate, or the House of Representatives. The person being investigated shall be given written notice by regular mail at least 10 days prior to the date that the State Bureau of Investigation is requested to perform the background investigation by the presiding officer of the body from which the request originated. There is a rebuttable presumption that the person being investigated received the notice if the presiding officer has a copy of the notice. The State Bureau of Investigation shall perform the requested background investigation and shall provide the information, including criminal records, to the presiding officer of the body from which the request originated. A copy of the information also shall be provided to the person being investigated. The term "background investigation" shall be limited to an investigation of a person's criminal record, educational background, employment record, records concerning the listing and payment of taxes, and credit record, and to a requirement that the person provide the information contained in the statements of economic interest required to be filed by persons subject to ~~Executive Order Number 1, filed on January 31, 1985, as contained on pages 1405 through 1419 of the 1985 Session Laws (First Session, 1985). Chapter 138A of the General Statutes.~~"

SECTION 90. The Revisor of Statutes shall change the term "Lobbyist's Principal" to "Lobbyist Principal" wherever it appears in Chapter 138A and Chapter 120C of the General Statutes. The Revisor of Statutes shall change the term "Lobbyist's Principals" to "Lobbyist Principals" wherever it appears in Chapter 138A and Chapter 120C of the General Statutes. The Revisor of Statutes shall change the term "Lobbyist's Principal's" to "Lobbyist Principal's" wherever it appears in Chapter 138A and Chapter 120C of the General Statutes.

SECTION 91. Section 44 of S.L. 2007-348 reads as rewritten:

"SECTION 44. Sections 17, 23, 39, 40 and 41 of this act are effective January 1, 2007. Section 9 of this act is effective July 1, 2007. Sections 8, 11, 15, 20, 22, 25, 34

and 42 of this act become effective October 1, 2007. Section 18 of this act becomes effective December 1, 2007. Section 34 of this act becomes effective January 1, 2008. The remainder of this act is effective when this act becomes law."

SECTION 91.5. If Senate Bill 1875, 2007 Regular Session, becomes law, then G.S. 138A-13(b1) as enacted by Section 6 of Senate Bill 1875, reads as rewritten:

"~~(b1)~~(b2) At the request of the Auditor, the Commission shall render advisory opinions on specific questions involving the meaning and application of this Chapter, Article 14 of Chapter 120 of the General Statutes, and Chapter 120C of the General Statutes and an affected person's compliance therewith. The request shall be in writing, electronic or otherwise, and relate to real fact settings and circumstances. Except when the question involves a question governed by subsection (b) or (b1) of this section, the Commission shall issue an advisory opinion under this subsection within 60 days of the receipt of all information deemed necessary by the Commission to render an opinion. If the question involves a question governed by subsection (b) or (b1) of this section, the Commission shall comply with the provisions of that section prior to responding to the Auditor by delivering the recommended advisory opinion to the Committee within 60 days of the receipt of all information deemed necessary by the Commission to render an opinion. The Committee shall act on the opinion within 30 days of receipt and the Commission shall deliver the opinion to the Auditor. If the Committee fails to act on a recommended advisory opinion under this subsection with 30 days of receipt, the Commission shall deliver its recommended advisory opinion to the Auditor. Notwithstanding G.S. 138A-13(e), the Auditor may only release those portions of the advisory opinion necessary to comply with the requirements of G.S. 147-64.6(c)(1)."

SECTION 92. Except as otherwise provided in this act, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 18th day of July, 2008.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:02 a.m. this 15th day of August, 2008