

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 716  
House Committee Substitute Favorable 6/30/10

Short Title: 2010 Ethics and Government Reform Changes.

(Public)

Sponsors:

Referred to:

March 24, 2009

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE LIMITS ON THE TRADING OF INFLUENCE OR POSITION FOR  
2 GAIN BY PROHIBITING CAMPAIGN CONTRIBUTIONS BY CERTAIN  
3 CONTRACTORS AND CLARIFYING CRIMINAL STATUTES ON SELF DEALING;  
4 TO CREATE THE VOTER-OWNED ELECTIONS COMMISSION; TO INCREASE THE  
5 PUNISHMENT FOR MAKING CAMPAIGN CONTRIBUTIONS IN THE NAME OF  
6 ANOTHER; TO INCREASE ACCESSIBILITY TO INFORMATION RELATED TO  
7 CANDIDATE CAMPAIGN COMMITTEES AND TO INFORMATION RELATED TO  
8 STATE CONTRACTS AND GRANTS; TO STRENGTHEN PUBLIC CONFIDENCE IN  
9 GOVERNMENT BY INCREASING THE REVOLVING DOOR PERIOD AND  
10 APPLICABILITY; TO CODIFY CERTAIN POSITIONS IN STATE GOVERNMENT  
11 AS A PUBLIC SERVANT UNDER THE STATE GOVERNMENT ETHICS ACT; TO  
12 STRENGTHEN TRANSPARENCY OF GOVERNMENT THROUGH ADDITIONAL  
13 DISCLOSURES BY PUBLIC SERVANTS, INCLUDING CAMPAIGN  
14 CONTRIBUTIONS PRIOR TO APPOINTMENT; TO INCREASE ACCOUNTABILITY  
15 OF PUBLIC SERVANTS, APPOINTEES OF THE GOVERNOR, AND STATE  
16 EMPLOYEES BY PERMITTING THE GOVERNOR TO ADOPT MINIMUM  
17 STANDARDS OF ETHICAL CONDUCT; TO CLARIFY THE INDIRECT GIFT BAN  
18 AND CLARIFY REPORTING BY LOBBYIST PRINCIPALS; TO STRENGTHEN  
19 TRANSPARENCY OF GOVERNMENT THROUGH INCREASING AND CLARIFYING  
20 ACCESSIBILITY TO LEGISLATIVE RECORDS AND OTHER PUBLIC RECORDS;  
21 TO MAKE TECHNICAL CHANGES TO THE ETHICS LAW; AND TO EXPEDITE  
22 REVIEW OF PRELIMINARY INVESTIGATIONS OF ALLEGATIONS OF  
23 WRONGDOING UNDER CHAPTERS 120 AND 138A OF THE GENERAL STATUTES.

24 The General Assembly of North Carolina enacts:

25 **SECTION 1.(a)** Article 22A of Chapter 163 of the General Statutes is amended to  
26 add a new section to read:

27 **"§ 163-278.13D. Prohibition on contributions by certain contractors.**

28 (a) No contractor that has entered into a contract in excess of fifty thousand dollars  
29 (\$50,000.00) with an office associated with a relevant political campaign shall make, from the  
30 date of the request for proposals through the term of that contract, a contribution greater than  
31 one thousand dollars (\$1,000.00) per calendar year to the relevant political campaign.

32 (b) No relevant political campaign shall knowingly accept a contribution greater than  
33 one thousand dollars (\$1,000.00) per calendar year from a contractor that has entered into a  
34 contract in excess of fifty thousand dollars (\$50,000) with the office associated with a relevant  
35 political campaign from the date of the request for proposals through the term of that contract.

36 (c) Cure. – No violation of this section shall occur if either of the following apply:  
37



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- 1           (1) A contractor requests in writing a return of a contribution within 60 days of  
2           making the contribution. The relevant political campaign shall return that  
3           contribution within 10 business days upon receipt of the written request.  
4           (2) A relevant political campaign discovers a contribution in violation of this  
5           section within 10 business days of receipt and returns that contribution  
6           within 10 business days of discovery.  
7       (d) Definitions. – For purposes of this section, the following definitions shall apply:  
8           (1) Contractor. – An officer, director or partner of a person, or any political  
9           committee of which the person is the parent entity as provided in  
10           G.S. 163-278.19.  
11           (2) Office. – One of the principal offices or departments listed in G.S. 143A-11.  
12           (3) Relevant political campaign. – A political committee controlled by a  
13           candidate for, or officer holding, the office with the authority to award the  
14           contract, a candidate for the office with authority to award the contract, or  
15           the officer holding the office with authority to award the contract.  
16       (e) Penalty. – A violation of this section is a Class 2 misdemeanor."

17       **SECTION 1.(b)** This section becomes effective December 1, 2010, and applies to  
18 contributions made on or after that date.

19       **SECTION 2.(a)** There is established the Public Funding of Council of State  
20 Elections Commission, which shall consist of the following members:

- 21           (1) Five members appointed by the Speaker of the House of Representatives, to  
22           include:  
23           a. Two members of the House of Representatives, of whom no more  
24           than one shall be of the same political party as the Speaker of the  
25           House of Representatives.  
26           b. A representative of the North Carolina Chamber.  
27           c. A representative of groups advocating and supporting public  
28           financing of elections.  
29           d. An individual who has received public financing for a campaign, or  
30           that individual's designee.  
31           (2) Five members appointed by the President Pro Tempore of the Senate, to  
32           include:  
33           a. Two members of the Senate, of whom no more than one shall be of  
34           the same political party as the President Pro Tempore of the Senate.  
35           b. A representative of the North Carolina Chamber.  
36           c. A representative of a groups advocating and supporting public  
37           financing of elections.  
38           d. A representative of the North Carolina State Bar.

39       **SECTION 2.(b)** The Commission shall study issues related to the continuation of  
40 public funding for Council of State elections, including:

- 41           (1) The existing program, funding sources for existing programs, and the  
42           financial needs of the existing program;  
43           (2) Whether to expand the program to the remainder of the Council of State, and  
44           the financial needs to accomplish that expansion;  
45           (3) Potential funding mechanisms to fund the needs of the existing program and  
46           the expansion; and  
47           (4) Any other matter pertinent to public financing of campaigns for elected  
48           office, including issues raised by the First Amendment and all legal  
49           precedents related to those issues.

50       **SECTION 2.(c)** The Commission shall report the results of its study and its  
51 recommendations to the 2011 General Assembly no later than March 1, 2011.

1           **SECTION 3.(a)** G.S. 126-14 reads as rewritten:

2   "**§ 126-14. Promise or threat to obtain political contribution or support.**

3       (a) It is unlawful for a State employee or a person appointed to State office, other than  
4 elective office or office on a board, commission, committee, or council whose function is  
5 advisory only, whether or not subject to the Personnel Act, to coerce:

- 6           (1) a State employee subject to the Personnel Act,  
7           (2) a probationary State employee,  
8           (3) a temporary State employee, or  
9           (4) an applicant for a position subject to the Personnel Act

10 to support or contribute to a political candidate, political committee as defined in  
11 G.S. 163-278.6, or political party or to change the party designation of ~~his~~the individual's voter  
12 registration by threatening that change in employment status or discipline or preferential  
13 personnel treatment will occur with regard to ~~a person~~an individual listed in subdivisions (1)  
14 through (4).

15       (a1) It is unlawful for an individual as defined in G.S. 138A-3(30)a. to coerce a person as  
16 described in G.S. 138A-32(d)(1), (2), or (3) to support or contribute to a political candidate, a  
17 political committee as defined in G.S. 163-278.6, or a political party by threatening discipline  
18 or promising preferential treatment with regard to that person's business with the individual's  
19 State office or that person's activities regulated by the individual's State office.

20       (b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

21       (c) A State employee subject to the Personnel Act, probationary State employee, or  
22 temporary State employee who without probable cause falsely accuses a State employee or a  
23 person appointed to State office of violating this section shall be subject to discipline or change  
24 in employment status in accordance with the provisions of G.S. 126-35, 126-37, and 126-38  
25 and may, as otherwise provided by law, be subject to criminal penalties for perjury or civil  
26 liability for libel, slander, or malicious prosecution."

27       **SECTION 3.(b)** This section becomes effective December 1, 2010, and applies to  
28 offenses committed on or after that date.

29           **SECTION 4.(a)** G.S. 14-234(a) reads as rewritten:

30   "**§ 14-234. Public officers or employees benefiting from public contracts; exceptions.**

- 31       (a) (1) No public officer or employee who is involved in making or administering a  
32 contract on behalf of a public agency may derive a direct benefit from the  
33 contract except as provided in this section, or as otherwise allowed by law.  
34       (2) A public officer or employee who will derive a direct benefit from a contract  
35 with the public agency he or she serves, but who is not involved in making  
36 or administering the contract, shall not attempt to influence any other person  
37 who is involved in making or administering the contract.  
38       (3) No public officer or employee may solicit or receive any gift, favor, reward,  
39 service, or promise of ~~reward~~reward, including a promise of future  
40 employment, in exchange for recommending, influencing, or attempting to  
41 influence the award of a contract by the public agency he or she serves."

42       **SECTION 4.(b)** This section becomes effective December 1, 2010, and applies to  
43 offenses committed on or after that date.

44           **SECTION 5.(a)** G.S. 120C-304(a) reads as rewritten:

45       "(a) No legislator or former legislator may register as a lobbyist under this  
46 ~~Chapter:~~Chapter

47           (1) ~~While~~while in office~~office or~~

48           (2) ~~Before the later of the close of session as set forth in G.S. 120C-100(a)(4)b.1~~  
49 ~~in which the legislator served or six months~~within one year after leaving  
50 office."

51       **SECTION 5.(b)** G.S. 120C-304(b) reads as rewritten:

1       "(b) No public servant or former public servant as defined in G.S. 138A-3(30)a. may  
2 register as a lobbyist under this Chapter while in office or within ~~six months~~ one year after  
3 leaving office."

4       **SECTION 5.(c)** G.S. 120C-304(c) reads as rewritten:

5       "(c) No public servant or former public servant as defined in G.S. 138A-3(30)c. may  
6 register as a lobbyist under this Chapter within ~~six months~~ one year after separation from  
7 employment as a public servant. No other employee of any State agency may register as a  
8 lobbyist under this Chapter to lobby the State agency that previously employed the former  
9 employee within one year after voluntary separation or separation for cause from that State  
10 agency."

11       **SECTION 5.(d)** G.S. 120C-200 is amended by adding a new subsection to read:

12       "(f) In addition to the information required for registration under subsection (b) of this  
13 section, former employees of a State agency who register as a lobbyist within one year after  
14 voluntary separation or separation for cause from employment with a State agency shall also  
15 indicate which State agency with which the former employee was employed."

16       **SECTION 5.(e)** Article 5 of Chapter 120C of the General Statutes is amended by  
17 adding a new section to read:

18 **"§ 120C-502. Local government liaison equivalents.**

19       (a) Each employee of a governmental unit whose principal duties, in practice or as set  
20 forth in that individual's job description, include lobbying, shall register under G.S. 120C-200  
21 and file reports under G.S. 120C-402.

22       (b) G.S. 120C-303 shall apply to an individual under subsection (a) of this section.

23       (c) For purposes of publication of the registry under G.S. 120C-220, the Secretary of  
24 State shall treat individuals registered under this section as liaison personnel.

25       **SECTION 5.(f)** This section becomes effective October 1, 2010, and applies to  
26 individuals leaving office or employment on or after that date.

27       **SECTION 6.(a)** G.S. 163-278.27 reads as rewritten:

28 **"§ 163-278.27. Criminal penalties; duty to report and prosecute.**

29       (a) Any individual, candidate, political committee, referendum committee, treasurer,  
30 person or media who intentionally violates the applicable provisions of G.S. 163-278.7,  
31 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.13, 163-278.13B,  
32 163-278.14, 163-278.16, 163-278.16B, 163-278.17, 163-278.18, 163-278.19, 163-278.20,  
33 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D, 163-278.40E, or  
34 163-278.40J is guilty of a Class 2 misdemeanor. The statute of limitations as stated in G.S. 15-1  
35 shall run from the day the last report is due to be filed with the appropriate board of elections  
36 for the election cycle for which the violation occurred.

37       (a1) A violation of G.S. 163-278.32 by making a certification knowing the information  
38 to be untrue is a Class I felony.

39       (a2) A person or individual who intentionally violates G.S. 163-278.14(a) or  
40 G.S. 163-278.19(a) and the unlawful contributions total more than ten thousand dollars  
41 (\$10,000) per election is guilty of a Class I felony.

42       (b) Whenever the Board has knowledge of or has reason to believe there has been a  
43 violation of any section of this Article, it shall report that fact, together with accompanying  
44 details, to the following prosecuting authorities:

45       (1) In the case of a candidate for nomination or election to the State Senate or  
46 State House of Representatives: report to the district attorney of the  
47 prosecutorial district in which the candidate for nomination or election  
48 resides;

49       (2) In the case of a candidate for nomination or election to the office of  
50 Governor, Lieutenant Governor, Secretary of State, State Auditor, State  
51 Treasurer, State Superintendent of Public Instruction, State Attorney

1 General, State Commissioner of Agriculture, State Commissioner of Labor,  
2 State Commissioner of Insurance, and all other State elective offices, Justice  
3 of the Supreme Court, Judge of the Court of Appeals, judge of a superior  
4 court, judge of a district court, and district attorney of the superior court:  
5 report to the district attorney of the prosecutorial district in which Wake  
6 County is located;

7 (3) In the case of an individual other than a candidate, including, without  
8 limitation, violations by members of political committees, referendum  
9 committees or treasurers: report to the district attorney of the prosecutorial  
10 district in which the individual resides; and

11 (4) In the case of a person or any group of individuals: report to the district  
12 attorney or district attorneys ~~to~~of the prosecutorial district or districts in  
13 which any of the officers, directors, agents, employees or members of the  
14 person or group reside.

15 (c) Upon receipt of such a report from the Board, the appropriate district attorney shall  
16 prosecute the individual or persons alleged to have violated a section or sections of this Article.

17 (d) As a condition of probation, a sentencing judge may order that the costs incurred by  
18 the State Board of Elections in investigating and aiding the prosecution of a case be paid to the  
19 State Board of Elections by the defendant on such terms and conditions as set by the judge."

20 **SECTION 6.(b)** G.S. 163-278.14(a) reads as rewritten:

21 "(a) No individual, political committee, or other entity shall make any contribution  
22 anonymously or in the name of another. No candidate, political committee, referendum  
23 committee, political party, or treasurer shall knowingly accept any contribution made by any  
24 individual or person in the name of another individual or person or made anonymously. If a  
25 candidate, political committee, referendum committee, political party, or treasurer receives  
26 anonymous contributions or contributions determined to have been made in the name of  
27 another, he shall pay the money over to the Board, by check, and all such moneys received by  
28 the Board shall be deposited in the Civil Penalty and Forfeiture Fund of the State of North  
29 Carolina. This subsection shall not apply to any contribution by an individual with the lawful  
30 authority to act on behalf of another individual, whether through power of attorney, trustee, or  
31 other lawful authority. If the lawful authority is pursuant to Chapter 35A of the General  
32 Statutes, no contribution may be made by the guardian of the estate for the minor or  
33 incompetent person."

34 **SECTION 6.(c)** This section becomes effective December 1, 2010, and applies to  
35 offenses committed on or after that date.

36 **SECTION 7.** In order to foster and facilitate transparency of information relating  
37 to political campaigns, the State Board of Elections shall create an easily searchable database to  
38 provide any member of the public with access to the database to search by geographic location,  
39 occupation, employer, contributor, or contributee, within an election cycle and over a period of  
40 time as specified by the searcher.

41 **SECTION 8.** Article 2 of Chapter 143C of the General Statutes is amended to add  
42 new sections to read:

43 **"§ 143C-2-5. Grants and contracts database.**

44 (a) The Director of the Budget shall require the Office of State Budget and  
45 Management, with the support of Information Technology Services, to build and maintain a  
46 database and Web site for providing a single, searchable Web site on State spending for grants  
47 and contracts to be known as NC OpenBook.

48 (b) Each head of a principal department listed in G.S. 143B-6 shall conduct a review  
49 monthly of all State contracts and grants administered by that principal department.

50 (c) All State institutions, departments, bureaus, agencies, or commissions subject to the  
51 authority of the Director of the Budget that maintain a Web site shall be required to include an

1 access link to the NC OpenBook Web site on the home page of the agency Web site. Each  
2 agency shall also prominently display a search engine on the agency Web site home page to  
3 allow for ease of searching for information, including contracts and grants, on the agency's  
4 Web site.

5 **"§ 143C-2-6. Contents of database and Web site.**

6 (a) The Office of State Controller, the Department of Administration, and Information  
7 Technology Services shall provide the Office of State Budget and Management with the  
8 statewide information on State contracts necessary for the development and maintenance of the  
9 database and Web site required by this Article, with the information updated at least monthly.

10 (b) The Office of State Budget and Management shall work with the Office of the State  
11 Auditor and the Grant Information Center to incorporate data on grants into the database and  
12 Web site required by this Article. All State institutions, departments, bureaus, agencies, or  
13 commissions subject to the authority of the Governor shall make necessary changes to existing  
14 reporting processes for contracts and grants to ensure the goals of this Article are met.

15 (c) All State contracts and grants awarded in amounts in excess of ten thousand dollars  
16 (\$10,000) shall be included in the database and Web site required by this Article. The following  
17 information shall be provided for each contract or grant:

18 (1) The name of the entity receiving the award.

19 (2) The amount of the award or estimated award.

20 (3) Information on the award, including type of transaction, funding agency, and  
21 duration of the contract or grant.

22 (4) The location of the entity receiving the award.

23 (5) Background information on the entity receiving the award.

24 (6) Time lines for anticipated completion of the work required.

25 (7) Expected outcomes of the contract or grant and specific deliverables  
26 required.

27 (8) Contact information for the responsible State government officer or  
28 administrator of the contract or grant."

29 **SECTION 9.** G.S. 138A-3(30) reads as rewritten:

30 "(30) Public servants. – All of the following:

- 31 a. Constitutional officers of the State and individuals elected or  
32 appointed as constitutional officers of the State prior to taking office.
- 33 b. Employees of the Office of the Governor.
- 34 c. Heads of all principal State departments, as set forth in G.S. 143B-6,  
35 who are appointed by the Governor.
- 36 d. The chief deputy and chief administrative assistant of each individual  
37 designated under sub-subdivision a. or c. of this subdivision.
- 38 e. Confidential assistants and secretaries as defined in G.S. 126-5(c)(2),  
39 to individuals designated under sub-subdivision a., c., or d. of this  
40 subdivision.
- 41 f. Employees in exempt positions designated in accordance with  
42 G.S. 126-5(d)(1), (2), or (2a) and confidential secretaries to these  
43 individuals.
- 44 g. Any other employees or appointees in the principal State departments  
45 as may be designated by the Governor to the extent that the  
46 designation does not conflict with the State Personnel Act.
- 47 h. Judicial employees.
- 48 i. All voting members of boards, including ex officio members,  
49 permanent designees of any voting member, and members serving by  
50 executive, legislative, or judicial branch appointment.

- 1 j. For The University of North Carolina, the voting members of the  
 2 Board of Governors of The University of North Carolina, the  
 3 president, the vice-presidents, and the chancellors, the  
 4 vice-chancellors, and voting members of the boards of trustees of the  
 5 constituent institutions.
- 6 k. For the Community College System, the voting members of the State  
 7 Board of Community Colleges, the President and the chief financial  
 8 officer of the Community College System, the president, chief  
 9 financial officer, and chief administrative officer of each community  
 10 college, and voting members of the boards of trustees of each  
 11 community college.
- 12 l. Members of the ~~Commission~~ Commission, the executive director,  
 13 and the assistant executive director of the Commission.
- 14 m. Individuals under contract with the State working in or against a  
 15 position included under this subdivision.
- 16 n. The director of the Office of State Personnel.
- 17 o. The State Controller.
- 18 p. The chief information officer, deputy chief information officers,  
 19 chief financial officers, and general counsel of the Office of  
 20 Information Technology.
- 21 q. The director of the State Museum of Art.
- 22 r. The executive director of the Agency for Public Telecommunication.
- 23 s. The Commissioner of Motor Vehicles.
- 24 t. The Commissioner of Banks and the chief deputy commissioners of  
 25 the Banking Commission.
- 26 u. The executive director of the North Carolina Housing Finance  
 27 Agency.
- 28 v. The executive director, chief financial officer, and chief operating  
 29 officer of the North Carolina Turnpike Authority."

30 **SECTION 10.** G.S. 143B-478 is amended by adding a new subsection to read:

31 "(f) The Commission shall be treated as a board for purposes of Chapter 138A of the  
 32 General Statutes."

33 **SECTION 11.** G.S. 138A-22 is amended by adding a new subsection to read:

34 "(d1) In addition to subsections (a) and (d) of this section, a covered person holding  
 35 elected office or a former covered person who held elected office subject to this Article shall  
 36 file a statement of economic interest in all of the following instances, as specified:

- 37 (1) Filed on or before April 15 of the year following the year a covered person  
 38 elects not to continue in the position making that individual a covered  
 39 person, with all information provided in the statement of economic interest  
 40 current as of the last day of December of the preceding year.
- 41 (2) Filed on or before April 15 of the year following the year the covered person  
 42 resigns from the position making that individual a covered person, with all  
 43 information provided in the statement of economic interest current as of the  
 44 last day in the position."

45 **SECTION 12.(a)** G.S. 138A-24(a) reads as rewritten:

46 **"§ 138A-24. Contents of statement.**

47 (a) Any statement of economic interest filed under this Article shall be on a form  
 48 prescribed by the ~~Commission and sworn to by the filing person.~~ Commission. Answers must  
 49 be provided to all questions. The form shall include the following information about the filing  
 50 person and the filing person's immediate family:

- 1           (1) Except as otherwise provided in this subdivision, the name, current mailing  
2 address, occupation, employer, and business of the filing person. Any  
3 individual holding or seeking elected office for which residence is a  
4 qualification for office shall include a home address. A judicial officer may  
5 use a current mailing address instead of the home address on the form  
6 required in this subsection. The judicial officer may also use the initials  
7 instead of the name of any unemancipated child of the judicial officer who  
8 also resides in the household of the judicial officer. If the judicial officer  
9 provides the initials of an unemancipated child, the judicial officer shall  
10 concurrently provide the name of the unemancipated child to the  
11 Commission. The name of an unemancipated child provided by the judicial  
12 officer to the Commission shall not be a public record under Chapter 132 of  
13 the General Statutes and is privileged and confidential.
- 14           (2) A list of each asset and liability included in this subdivision of whatever  
15 nature (including legal, equitable, or beneficial interest) with a value of at  
16 least ten thousand dollars (\$10,000) owned by the filing person and the filing  
17 person's immediate family, except assets or liabilities held in a blind trust.  
18 This list shall include the following:
- 19           a. All real estate located in the State owned wholly or in part by the  
20 filing person or the filing person's immediate family, including  
21 descriptions adequate to determine the location by city and county of  
22 each parcel.
- 23           b. Real estate that is currently leased or rented to or from the State.
- 24           c. Personal property sold to or bought from the State within the  
25 preceding two years.
- 26           d. Personal property currently leased or rented to or from the State.
- 27           e. The name of each publicly owned company. For purposes of this  
28 sub-subdivision, the term "publicly owned company" shall not  
29 include a widely held investment fund, including a mutual fund,  
30 regulated investment company, or pension or deferred compensation  
31 plan, if all of the following apply:
- 32               1. The filing person or a member of the filing person's  
33 immediate family neither exercises nor has the ability to  
34 exercise control over the financial interests held by the fund.
- 35               2. The fund is publicly traded, or the fund's assets are widely  
36 diversified.
- 37           f. The name of each nonpublicly owned company or business entity,  
38 including interests in sole proprietorships, partnerships, limited  
39 partnerships, joint ventures, limited liability companies, limited  
40 liability partnerships, and closely held corporations.
- 41           g. For each company or business entity listed under sub-subdivision f.  
42 of this subdivision, if known, a list of any other companies or  
43 business entities in which the company or business entity owns  
44 securities or equity interests exceeding a value of ten thousand  
45 dollars (\$10,000).
- 46           h. ~~A list of all nonpublicly owned businesses of which the filing person~~  
47 ~~and the filing person's immediate family is an officer, employee,~~  
48 ~~director, partner, owner, or member or manager of a limited liability~~  
49 ~~company.~~
- 50           i. For any company or business entity listed under sub-subdivisions f.,  
51 g., and h. of this subdivision, if known, any company or business



- 1 entity that has any material business dealings, contracts, or other  
2 involvement with the State, or is regulated by the State, including a  
3 brief description of the business activity.
- 4 j. For a vested trust created, established, or controlled by the filing  
5 person of which the filing person or the members of the filing  
6 person's immediate family are the beneficiaries, excluding a blind  
7 trust, the name and address of the trustee, a description of the trust,  
8 and the filing person's relationship to the trust.
- 9 k. A list of all liabilities, excluding indebtedness on the filing person's  
10 primary personal residence, by type of creditor and debtor.
- 11 l. Repealed by Session Laws 2007-348, s. 34. See Editor's note for  
12 effective date.
- 13 m. A list of all stock options in a company or business not otherwise  
14 disclosed on this statement.
- 15 (3) The name of each source (not specific amounts) of income of more than five  
16 thousand dollars (\$5,000) received during the previous year by business or  
17 industry type, if that source is not listed under subdivision (2) of this  
18 subsection. Income shall include salary, wages, professional fees, honoraria,  
19 interest, dividends, rental income, and business income from any source  
20 other than capital gains, federal government retirement, military retirement,  
21 or social security income.
- 22 (4) If the filing person is a practicing attorney, an indication of whether the  
23 filing person, or the law firm with which the filing person is affiliated,  
24 earned legal fees during the past year in excess of ten thousand dollars  
25 (\$10,000) from any of the following categories of legal representation:
- 26 a. Administrative law.  
27 b. Admiralty law.  
28 c. Corporate law.  
29 d. Criminal law.  
30 e. Decedents' estates law.  
31 f. Environmental law.  
32 g. Insurance law.  
33 h. Labor law.  
34 i. Local government law.  
35 j. Negligence or other tort litigation law.  
36 k. Real property law.  
37 l. Securities law.  
38 m. Taxation law.  
39 n. Utilities regulation law.
- 40 (5) Except for a filing person in compliance under subdivision (4) of this  
41 subsection, if the filing person is a licensed professional or provides  
42 consulting services, either individually or as a member of a professional  
43 association, a list of categories of business and the nature of services  
44 rendered, for which payment for services were charged or paid during the  
45 past year in excess of ten thousand dollars (\$10,000).
- 46 (6) An indication of whether the filing person, the filing person's employer, a  
47 member of the filing person's immediate family, or the immediate family  
48 member's employer is licensed or regulated by, or has a business relationship  
49 with, the board or employing entity with which the filing person is or will be  
50 associated. This subdivision does not apply to a legislator, a judicial officer,  
51 or that legislator's or judicial officer's immediate family.

- 1 (7) A list of societies, organizations, or advocacy groups, pertaining to subject  
2 matter areas over which the public servant's agency or board may have  
3 jurisdiction, in which the public servant or a member of the public servant's  
4 immediate family is a director, officer, or governing board member. This  
5 subdivision does not apply to a legislator, a judicial officer, or that  
6 legislator's or judicial officer's immediate family.
- 7 (8) A list of all things with a total value of over two hundred dollars (\$200.00)  
8 per calendar quarter given and received without valuable consideration and  
9 under circumstances that a reasonable person would conclude that the thing  
10 was given for the purpose of lobbying, if such things were given by a person  
11 not required to report under Chapter 120C of the General Statutes, excluding  
12 things given by a member of the filing person's extended family. The list  
13 shall include only those things received during the 12 months preceding the  
14 reporting period under subsection (d) of this section, and shall include the  
15 source of those things. The list required by this subdivision shall not apply to  
16 things of monetary value received by the filing person prior to the time the  
17 filing person filed or was nominated as a candidate for office, as described in  
18 G.S. 138A-22, or was appointed or employed as a covered person.
- 19 (9) A list of any felony convictions of the filing person, excluding any felony  
20 convictions for which a pardon of innocence or order of expungement has  
21 been granted.
- 22 (10) Any other information that the filing person believes may assist the  
23 Commission in advising the filing person with regards to compliance with  
24 this Chapter.
- 25 (11) A list of any nonprofit corporation or organization with which associated  
26 during the preceding calendar year, including a list of which of those  
27 nonprofit corporations or organizations with which associated do business  
28 with the State or receive State funds and a brief description of the nature of  
29 the business, if known or with which due diligence could reasonably be  
30 known.
- 31 (12) A statement of whether the filing person or the filing person's immediate  
32 family is or has been a lobbyist or lobbyist principal registered under  
33 Chapter 120C of the General Statutes within the preceding 12 months.
- 34 (13) A list of all contributions as defined in G.S. 163-278.6(6) of one thousand  
35 dollars (\$1,000.00) or more made by the filing person only, during the  
36 preceding calendar year, to the candidate campaign committee of the  
37 covered person as defined in G.S. 138A-3(30)a. who is recommending  
38 appointment in writing, or to the candidate campaign committee of the  
39 legislator who is recommending appointment to the board pursuant to  
40 G.S. 120-121(c).
- 41 (14) A list of contributions as defined in G.S. 163-278.6(6) resulting from the  
42 fundraising of one thousand dollars (\$1,000) or more during the preceding  
43 calendar year by the filing person only that are accepted by the candidate  
44 campaign committee for the covered person as defined in G.S. 138A-3(30)a.,  
45 or are accepted by the candidate campaign committee for a legislator who is  
46 recommending appointment in writing to the board pursuant to  
47 G.S. 120-121(c). For purposes of this subdivision, "fundraising" shall mean  
48 the actual delivery of a contribution or any activity that results in the belief  
49 and self-disclosure by the filing person that the filing person is responsible  
50 for a contribution being made. This subdivision applies only to the following  
51 filing persons:

- 1           a.     Public servants, or a prospective appointee to, as defined in  
 2                 G.S. 138A-3(30)c.  
 3           b.     Judicial officers that serve on, or a prospective appointee to, the  
 4                 Supreme Court, the Court of Appeals, and the superior court.  
 5           c.     Covered persons serving on, or a prospective appointee to, the  
 6                 following State boards:  
 7                 1.     Alcoholic Beverage Control Commission.  
 8                 2.     Coastal Resources Commission.  
 9                 3.     State Board of Community Colleges.  
 10                4.     State Board of Education.  
 11                5.     State Board of Elections.  
 12                6.     Employment Security Commission.  
 13                7.     Environmental Management Commission.  
 14                8.     Industrial Commission.  
 15                9.     State Personnel Commission.  
 16                10.    Rules Review Commission.  
 17                11.    Board of Transportation.  
 18                12.    Utilities Commission.  
 19                13.    Wildlife Resources Commission.

20           (15) The name of each business with which associated that the filing person or  
 21                 filing person's immediate family is an employee, director, officer, partner,  
 22                 proprietor, or member or manager."

23           **SECTION 12.(b)** G.S. 138A-24(c) reads as rewritten:

24           "(c) Each statement of economic interest shall contain ~~sworn~~a certification by the filing  
 25 person that the filing person has read the statement and that, to the best of the filing person's  
 26 knowledge and belief, the statement is true, correct, and complete. The filing person's ~~sworn~~  
 27 certification also shall provide that the filing person has not transferred, and will not transfer,  
 28 any asset, interest, or other property for the purpose of concealing it from disclosure while  
 29 retaining an equitable interest therein."

30           **SECTION 12.(c)** G.S. 138A-24(a)(2)i. is recodified as G.S. 138A-24(16).

31           **SECTION 12.(d)** G.S. 138A-24(a)(16), as enacted by Section 13(c) of this act,  
 32 reads as rewritten:

33           "(16) For any company or business entity listed under subdivision (15) of this  
 34                 subsection and sub-subdivisions f., g., and h.f. and g. of subdivision (2) this  
 35                 subdivision,subsection, if known, any company or business entity that has  
 36                 any material business ~~dealings, contracts, dealings or other involvement~~  
 37                 business contracts with the State, or is regulated by the State, including a  
 38                 brief description of the business activity."

39           **SECTION 12.(e)** This section becomes effective January 1, 2011, and applies to  
 40 statements of economic interest filed on or after that date.

41           **SECTION 13.** G.S. 138A-41 reads as rewritten:

42           "**§ 138A-41. Other ethics standards.**

43           (a) Nothing in this Chapter shall prevent the Supreme Court, the Committee, the  
 44 Legislative Services Commission, constitutional officers of the State, heads of principal  
 45 departments, the Board of Governors of The University of North Carolina, the State Board of  
 46 Community Colleges, or other boards from adopting additional or supplemental ethics  
 47 standards applicable to that public agency's operations.

48           (b) The Governor, as a constitutional officer of the State, shall have the authority to  
 49                 adopt additional and supplemental ethics standards applicable to any appointee of the Governor  
 50                 to any State board, commission, council, committee, task force, authority, or similar public  
 51                 body, however denominated, created by statute or executive order, whether advisory or

1 non-advisory in authority. If the Governor adopts such ethics standards, the standards shall be  
2 published in the North Carolina Register and made available to each appointee subject to the  
3 ethics standards.

4 (c) The Governor, as a constitutional officer of the State, shall have the authority to  
5 adopt minimum ethics standards applicable to any employee of a State agency. If the Governor  
6 adopts such standards, the ethics standards shall be published in the North Carolina Register."

7 **SECTION 14.(a)** G.S. 120C-303(a) reads as rewritten:

8 "(a) Except as provided in subsection (b) of this section, no lobbyist or lobbyist principal  
9 may do any of the following:

10 (1) Knowingly give a gift to a designated individual.

11 (2) Knowingly give a gift with the intent that a designated individual be ~~the~~an  
12 ultimate recipient."

13 **SECTION 14.(b)** G.S. 138A-32(c) reads as rewritten:

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

19 (1) The gift was obtained indirectly from a lobbyist, lobbyist principal, or  
20 liaison personnel registered under Chapter 120C of the General Statutes.

21 (2) The lobbyist, lobbyist principal, or liaison personnel registered under  
22 Chapter 120C of the General Statutes intended for ~~the~~an ultimate recipient  
23 of the gift to be a public servant, legislator, or legislative employee as  
24 provided in G.S. 120C-303."

25 **SECTION 14.(c)** G.S. 138A-32(d1) reads as rewritten:

26 "(d1) No public servant shall accept a gift knowing all of the following:

27 (1) The gift was obtained indirectly from a person described under subdivisions  
28 (d)(1), (2), ~~and~~or (3) of this section.

29 (2) The person described under subdivisions (d)(1), (2), ~~and~~or (3) of this section  
30 intended for ~~the~~an ultimate recipient of the gift to be a public servant."

31 **SECTION 14.(d)** This section becomes effective December 1, 2010, and applies to  
32 offenses committed on or after that date.

33 **SECTION 15.** G.S. 120C-101(c) reads as rewritten:

34 "(c) In adopting rules under this Chapter, the Commission is exempt from the  
35 requirements of Article 2A of Chapter 150B of the General Statutes, except that the  
36 Commission shall comply with G.S. 150B-21.2(d). At least 30 business days prior to adopting a  
37 rule, the Commission shall:

38 (1) Publish the proposed rules in the North Carolina Register.

39 (2) Submit the rule and a notice of public hearing to the Codifier of Rules, and  
40 the Codifier of Rules shall publish the proposed rule and the notice of public  
41 hearing on the Internet to be posted within five business days.

42 (3) Notify those on the mailing list maintained in accordance with  
43 G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a  
44 rule and of the public hearing.

45 (4) Accept written comments on the proposed rule for at least 15 business days  
46 prior to adoption of the rule.

47 (5) Hold at least one public hearing on the proposed rule no less than five days  
48 after the rule and notice have been published.

49 A rule adopted under this subsection becomes effective the first day of the month following the  
50 month the final rule is submitted to the Codifier of Rules for entry into the North Carolina  
51 Administrative ~~Code~~Code, and applies prospectively. A rule adopted by the Commission that

1 does not comply with the procedural requirements of this subsection shall be null, void, and  
2 without effect. For purposes of this subsection, a rule is any Commission regulation, standard,  
3 or statement of general applicability that interprets an enactment by the General Assembly or  
4 Congress, or a regulation adopted by a federal agency, or that describes the procedure or  
5 practice requirements of the Commission."

6 **SECTION 16.(a)** G.S. 120C-100(a)(9) reads as rewritten:

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

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

15 ~~The term-terms "lobby" or "lobbying" does-do not include communications~~  
16 ~~or activities as part of a business, civic, religious, fraternal, personal, or~~  
17 ~~commercial relationship which is not connected to legislative or executive~~  
18 ~~action, or both."~~

19 **SECTION 16.(b)** G.S. 120C-100(a)(10) reads as rewritten:

20 "(10) Lobbyist. – An individual who engages in lobbying for payment and meets  
21 any of the following criteria:

- 22 a. Repealed by Session Laws 2007-348, s. 8(a), effective October 10,  
23 2007.  
24 b. Represents another person or governmental unit, but is not directly  
25 employed by that person or governmental ~~unit, and receives payment~~  
26 ~~for services. unit. For the purposes of this sub-subdivision, the term~~  
27 ~~"payment for services" shall not include reimbursement of actual~~  
28 ~~travel and subsistence.~~  
29 c. ~~Contracts for economic consideration-payment for the purpose of~~  
30 ~~lobbying.~~  
31 d. Is employed by a person and a significant part of that employee's  
32 duties include lobbying. In no case shall an employee be considered a  
33 lobbyist if in no 30-day period less than five percent (5%) of that  
34 employee's actual duties include engaging in lobbying as defined in  
35 subdivision (9)a. of this section or if in no 30-day period less than  
36 five percent (5%) of that employee's actual duties include engaging  
37 in lobbying as defined in subdivision (9)b. of this section.

38 The term "lobbyist" shall not include individuals who are specifically  
39 exempted from this Chapter by G.S. 120C-700 or registered as liaison  
40 personnel under Article 5 of this Chapter."

41 **SECTION 16.(c)** G.S. 120C-100(a)(11) reads as rewritten:

42 "(11) Lobbyist principal and principal. – The person or governmental unit on  
43 whose behalf the lobbyist ~~lobbies-lobbies and who makes payment for the~~  
44 lobbying. In the case where a lobbyist is ~~compensated-paid~~ by a law firm,  
45 consulting firm, or other entity retained by a person or governmental unit for  
46 lobbying, the principal is the person or governmental unit whose interests the  
47 lobbyist represents in lobbying. In the case of a lobbyist employed or  
48 retained by an association or other organization, the lobbyist principal is the  
49 association or other organization, not the individual members of the  
50 association or other organization.

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

3 **SECTION 16.(d)** G.S. 120C-100(a)(11k) reads as rewritten:

4 "(11k) ~~Payment for services.~~Payment. – Any money, thing of value, or economic  
5 benefit ~~paid conveyed to a the~~ lobbyist for ~~the purpose of lobbying lobbying,~~  
6 other than reimbursement of actual travel, administrative expenses, or  
7 subsistence."

8 **SECTION 16.(e)** G.S. 120C-100(a)(13) reads as rewritten:

9 "(13) Solicitation of others. – A solicitation of members of the public to  
10 communicate directly with or contact one or more designated individuals ~~for~~  
11 ~~the purpose of influencing or attempting to influence or attempt to influence~~  
12 legislative or executive action to further the solicitor's position on that  
13 legislative or executive action, when that request is made by any of the  
14 following methods:

- 15 a. A broadcast, cable, or satellite transmission.
- 16 b. An e-mail communication or a Web site posting.
- 17 c. A communication delivered by print media as defined in  
18 G.S. 163-278.38Z.
- 19 d. A letter or other written communication delivered by mail or by  
20 comparable delivery service.
- 21 e. Telephone.
- 22 f. A communication at a conference, meeting, or similar event.

23 The term "solicitation of others" does not include communications  
24 made by a person or by the person's agent to that person's stockholders,  
25 employees, board members, officers, members, subscribers, or other  
26 recipients who have affirmatively assented to receive the person's regular  
27 publications or notices."

28 **SECTION 16.(f)** G.S. 120C-300 reads as rewritten:

29 **"§ 120C-300. Contingency fees prohibited.**

30 (a) No individual shall act as a lobbyist ~~for and receive payment for services lobbying~~  
31 that is dependent upon the result or outcome of any legislative or executive action.

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

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

40 **SECTION 16.(g)** G.S. 120C-305 reads as rewritten:

41 **"§ 120C-305. Prohibition on the use of cash or credit of the lobbyist.**

42 No lobbyist or another acting on the lobbyist's behalf shall ~~permit lobby by permitting~~ a  
43 designated individual, or that designated individual's immediate family member, to use the cash  
44 or credit of the lobbyist ~~for the purpose of lobbying~~ unless the lobbyist is in attendance at the  
45 time of the reportable expenditure. G.S. 120C-303 applies to this section."

46 **SECTION 16.(h)** G.S. 120C-400(a) reads as rewritten:

47 **"§ 120C-400. Reporting of reportable expenditures.**

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

- 50 (1) Reportable expenditures benefiting or made on behalf of a designated  
51 individual in the regular course of that designated individual's employment.

- 1 (1a) Reportable expenditures benefiting or made on behalf of a designated  
2 individual's immediate family member in the regular course of that  
3 immediate family member's employment.  
4 (2) Contractual arrangements or direct business relationships between a lobbyist  
5 or lobbyist principal and a designated individual, or that designated  
6 individual's immediate family member, in effect during the reporting period  
7 or the previous 12 months.  
8 (3) Reportable expenditures reimbursed to a lobbyist in the ordinary course of  
9 business by the lobbyist principal or other employer."

10 **SECTION 16.(i)** G.S. 120C-402(b) reads as rewritten:

11 "(b) The report shall include all of the following for the reporting period:

- 12 (1) All reportable expenditures made for ~~the purpose of~~ lobbying.  
13 (2) Solicitation of others when such solicitation involves an aggregate cost of  
14 more than three thousand dollars (\$3,000).  
15 (3) Reportable expenditures reimbursed by the lobbyist principal, or another  
16 person or governmental unit on the lobbyist principal's behalf.  
17 (4) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9),  
18 138A-32(e)(11), 138A-32(e)(12), and all gifts given under  
19 G.S. 138A-32(e)(10) with a value of more than ten dollars (\$10.00)."

20 **SECTION 16.(k)** G.S. 120C-403 reads as rewritten:

21 "**§ 120C-403. Lobbyist principal's reports.**

22 (a) Each lobbyist principal shall file quarterly reports under oath with the Secretary of  
23 State with respect to each lobbyist principal.

24 (b) The report shall be filed whether or not reportable expenditures are made, shall be  
25 due ~~10-15~~ business days after the end of the reporting period, and shall include all of the  
26 following for the reporting period:

- 27 (1) All reportable expenditures made for ~~the purpose of~~ lobbying.  
28 (2) Solicitation of others when such solicitation involves an aggregate cost of  
29 more than three thousand dollars (\$3,000).  
30 (3) Recodified as G.S. 120C-403(d).  
31 (4) With respect to each lobbyist registered under G.S. 120C-206, reportable  
32 expenditures reimbursed or paid to lobbyists for lobbying that are not  
33 reported on the lobbyist's report, with an itemized description of those  
34 reportable expenditures.  
35 (5) All reportable expenditures for gifts given under G.S. 138A-32(e)(1)-(9),  
36 138A-32(e)(11), 138A-32(e)(12), and all gifts given under  
37 G.S. 138A-32(e)(10) with a value of more than two hundred dollars  
38 (\$200.00).  
39 (6) With respect to each lobbyist registered under G.S. 120C-206, the name of  
40 each person or governmental unit not otherwise registered as a lobbyist  
41 principal for whom the lobbyist principal directs the lobbyist to lobby,  
42 whether for pay or not.

43 (c) In addition to the reports required by this section, each lobbyist principal incurring  
44 reportable expenditures in any month while the General Assembly is in session with respect to  
45 lobbying legislators and legislative employees shall file a monthly reportable expenditure  
46 report. The monthly reportable expenditure report shall contain information required by this  
47 section with respect to all lobbying of legislators and legislative employees, and is due within  
48 10 business days after the end of the month. The information on the monthly report shall also  
49 be included in each quarterly report required by subsection (a) of this section.

50 (d) In addition to the reports required by this section, each lobbyist principal shall  
51 annually, in the last report for the registration period under G.S. 120C-200(d), report the total

1 of all payments for lobbying and other activities described in subdivision (2) of subsection (e)  
2 of this section made during the registration period, as applicable:

3 (1) If a lobbyist represents the lobbyist principal, but is not directly employed by  
4 that lobbyist principal, the portion of the payment that is for lobbying and to  
5 whom it was paid.

6 (2) If a lobbyist is under contract with the lobbyist principal for lobbying, the  
7 portion of the contract that is reasonably allocated for lobbying.

8 (3) If a lobbyist is a full-time employee of the principal, or is paid by means of  
9 an annual fee or retainer, the principal shall estimate and report the portion  
10 of the salary, fee, or retainer salary that is reasonably allocated for lobbying.

11 (e) For purposes of subsection (d) of this section, the following shall apply:

12 (1) A lobbyist principal may rely upon a statement by the lobbyist estimating the  
13 portion of the salary or other payment that is reasonably allocated for  
14 lobbying.

15 (2) In addition to reporting any payment to a lobbyist for lobbying under  
16 subsection (d) of this section, a lobbyist principal shall report, cumulatively  
17 for the year, any payment to a lobbyist for any of the following  
18 communications and activities that were used to lobby within the registration  
19 period under G.S. 120C-200(d):

20 a. Research.

21 b. Drafting of written communications.

22 c. Monitoring of proposed or pending legislative action or executive  
23 action, including time spent preparing communications with the  
24 lobbyist principal to relate information on proposed or pending  
25 legislative action or executive action.

26 d. Time spent advising and rendering opinions to the lobbyist principal  
27 as to the construction and effect of proposed or pending legislative  
28 action or executive action.

29 (3) A lobbyist principal is required to report any payment to a lobbyist for any  
30 of the following:

31 a. Direct lobbying communications or direct lobbying activities with a  
32 designated individual or that designated individual's immediate  
33 family.

34 b. Communications or activities to develop goodwill, including the  
35 building of relationships, with a designated individual or that  
36 designated individual's immediate family member."

37 **SECTION 16.(l)** G.S. 120C-404(b)(1) reads as rewritten:

38 "(1) All reportable expenditures made for ~~the purpose of~~ lobbying during the  
39 reporting period."

40 **SECTION 16.(m)** G.S. 120C-501(e) reads as rewritten:

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

46 **SECTION 16.(n)** G.S. 120C-800(a) reads as rewritten:

47 "(a) If a designated individual accepts a reportable expenditure made for ~~the purpose of~~  
48 lobbying with a total value of over two hundred dollars (\$200.00) per calendar quarter from a  
49 person or group of persons acting together, exempted or not otherwise covered by this Chapter,  
50 the person, or group of persons, making the reportable expenditure shall report the date, a  
51 description of the reportable expenditure, the name and address of the person, or group of



1 persons, making the reportable expenditure, the name of the designated individual accepting the  
2 reportable expenditure, and the estimated fair market value, or face value if shown, of the  
3 reportable expenditure."

4 **SECTION 16.(o)** G.S. 138A-3(1) reads as rewritten:

5 "(1) Blind trust. – A trust established by or for the benefit of a covered person or  
6 a member of the covered person's immediate family for ~~the purpose of~~  
7 divestiture of all control and knowledge of assets. A trust qualifies as a blind  
8 trust under this subdivision if the covered person or a member of the covered  
9 person's immediate family has no knowledge of the holdings and sources of  
10 income of the trust, the trustee of the trust is independent of and not  
11 associated with or employed by the covered person or a member of the  
12 covered person's immediate family and is not a member of the covered  
13 person's extended family, and the trustee has sole discretion as to the  
14 management of the trust assets."

15 **SECTION 16.(p)** G.S. 138A-3(15) reads as rewritten:

16 "(15) Gift. – Anything of monetary value given or received without valuable  
17 consideration by or from a lobbyist, lobbyist principal, liaison personnel, or  
18 a person described under G.S. 138A-32(d)(1), (2), or (3). The following shall  
19 not be considered gifts under this subdivision:

- 20 a. Anything for which fair market value, or face value if shown, is paid  
21 by the covered person or legislative employee.
- 22 b. Commercially available loans made on terms not more favorable  
23 than generally available to the general public in the normal course of  
24 business if not made for ~~the purpose of~~ lobbying.
- 25 c. Contractual arrangements or commercial relationships or  
26 arrangements made in the normal course of business if not made for  
27 ~~the purpose of~~ lobbying.
- 28 d. Academic or athletic scholarships based on the same criteria as  
29 applied to the public.
- 30 e. Campaign contributions properly received and reported as required  
31 under Article 22A of Chapter 163 of the General Statutes.
- 32 f. Expressions of condolence related to a death of an individual, sent  
33 within a reasonable time of the death, if the expression is one of the  
34 following:
  - 35 1. A sympathy card, letter, or note.
  - 36 2. Flowers.
  - 37 3. Food or beverages for immediate consumption.
  - 38 4. Donations to a religious organization, charity, the State or a  
39 political subdivision of the State, not to exceed a total of two  
40 hundred dollars (\$200.00) per death per donor."

41 **SECTION 16.(q)** G.S. 138A-13(f) reads as rewritten:

42 "(f) This section shall apply to judicial officers only for ~~the purpose of~~ advice related to  
43 Article 3 of this Chapter."

44 **SECTION 16.(r)** G.S. 138A-24(a)(8) reads as rewritten:

45 "(8) A list of all things with a total value of over two hundred dollars (\$200.00)  
46 per calendar quarter given and received without valuable consideration and  
47 under circumstances that a reasonable person would conclude that the thing  
48 was given for ~~the purpose of~~ lobbying, if such things were given by a person  
49 not required to report under Chapter 120C of the General Statutes, excluding  
50 things given by a member of the filing person's extended family. The list  
51 shall include only those things received during the 12 months preceding the

1 reporting period under subsection (d) of this section, and shall include the  
 2 source of those things. The list required by this subdivision shall not apply to  
 3 things of monetary value received by the filing person prior to the time the  
 4 filing person filed or was nominated as a candidate for office, as described in  
 5 G.S. 138A-22, or was appointed or employed as a covered person."

6 **SECTION 16.(s)** G.S. 138A-32(e)(10) reads as rewritten:

7 "(10) Gifts given or received as part of a business, civic, religious, fraternal,  
 8 personal, or commercial relationship provided all of the following conditions  
 9 are met:

- 10 a. The relationship is not related to the public servant's, legislator's, or  
 11 legislative employee's public service or position.  
 12 b. The gift is made under circumstances that a reasonable person would  
 13 conclude that the gift was not given ~~for the purpose of lobbying to~~  
 14 lobby."

15 **SECTION 16.(t)** This section is effective January 1, 2011, and applies to offenses  
 16 committed on or after that date, and reports filed on or after that date.

17 **SECTION 17.(a)** G.S. 126-23 reads as rewritten:

18 **"§ 126-23. Certain records to be kept by State agencies open to inspection.**

19 (a) Each department, agency, institution, commission and bureau of the State shall  
 20 maintain a record of each of its employees, showing the following information with respect to  
 21 each such employee:

22 (1) ~~name,~~Name.

23 (2) ~~age,~~Age.

24 (3) ~~date~~Date of original employment or appointment to the State service,service.

25 (4) ~~the~~The terms of any contract by which the employee is employed whether  
 26 written or oral, past and current, to the extent that the agency has the written  
 27 contract or a record of the oral contract in its possession,possession.

28 (5) ~~current position,~~Current position.

29 (6) ~~title,~~Title.

30 (7) ~~current salary,~~Current salary.

31 (8) ~~date~~Date and amount of most recenteach increase or decrease in  
 32 salary,salary with that department, agency, institution, commission, or  
 33 bureau.

34 (9) ~~date~~Date and category of position classification change with that department,  
 35 agency, institution, commission, or bureau of most recentin each of the  
 36 following categories:

37 a. ~~promotion,~~Promotion.

38 b. ~~demotion,~~Demotion.

39 c. ~~transfer,~~Transfer.

40 d. ~~suspension,~~Suspension.

41 e. ~~separation,~~Separation.

42 f. ~~or other~~Other change in position classification,classification.

43 (10) ~~and the~~The office or station to which the employee is currently assigned.

44 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,  
 45 bonuses, and deferred and all other forms of compensation paid by the employing entity.

46 (c) Subject only to rules and regulations for the safekeeping of the records, adopted by  
 47 the State Personnel Commission, every person having custody of such records shall permit  
 48 them to be inspected and examined and copies thereof made by any person during regular  
 49 business hours. Any person who is denied access to any such record for the purpose of  
 50 inspecting, examining or copying the same shall have a right to compel compliance with the

1 provisions of this section by application to a court of competent jurisdiction for a writ of  
2 mandamus or other appropriate relief."

3 **SECTION 17.(b)** G.S. 115C-320 reads as rewritten:

4 "**§ 115C-320. Certain records open to inspection.**

5 (a) Each local board of education shall maintain a record of each of its employees,  
6 showing the following information with respect to each employee:

7 (1) ~~name,~~ Name.

8 (2) ~~age,~~ Age.

9 (3) ~~date~~ Date of original employment or ~~appointment,~~ appointment.

10 (4) ~~the~~ The terms of any contract by which the employee is employed whether  
11 written or oral, past and current, to the extent that the board has the written  
12 contract or a record of the oral contract in its ~~possession,~~ possession.

13 (5) ~~current position,~~ Current position.

14 (6) ~~title,~~ Title.

15 (7) ~~current salary,~~ Current salary.

16 (8) ~~date~~ Date and amount of ~~most recent each~~ increase or decrease in ~~salary,~~  
17 salary with that local board of education.

18 (9) ~~date~~ Date and category of position classification change with that local board  
19 of education of ~~most recent~~ in each of the following categories:

20 a. ~~promotion,~~ Promotion.

21 b. ~~demotion,~~ Demotion.

22 c. ~~transfer,~~ Transfer.

23 d. ~~suspension,~~ Suspension.

24 e. ~~separation,~~ Separation.

25 f. ~~or other~~ Other change in position ~~classification, and~~ classification.

26 (10) ~~the~~ The office or station to which the employee is currently assigned.

27 (b) For the purposes of this section, the term "salary" includes pay, benefits, incentives,  
28 bonuses, and deferred and all other forms of compensation paid by the employing entity.

29 (c) Subject only to rules and regulations for the safekeeping of records adopted by the  
30 local board of education, every person having custody of the records shall permit them to be  
31 inspected and examined and copies made by any person during regular business hours. The  
32 name of a participant in the Address Confidentiality Program established pursuant to Chapter  
33 15C of the General Statutes shall not be open to inspection and shall be redacted from any  
34 record released pursuant to this section. Any person who is denied access to any record for the  
35 purpose of inspecting, examining or copying the record shall have a right to compel compliance  
36 with the provisions of this section by application to a court of competent jurisdiction for a writ  
37 of mandamus or other appropriate relief."

38 **SECTION 17.(c)** G.S. 115D-28 reads as rewritten:

39 "**§ 115D-28. Certain records open to inspection.**

40 (a) Each board of trustees shall maintain a record of each of its employees, showing the  
41 following information with respect to each employee:

42 (1) ~~name,~~ Name.

43 (2) ~~age,~~ Age.

44 (3) ~~date~~ Date of original employment or ~~appointment,~~ appointment.

45 (4) ~~the~~ The terms of any contract by which the employee is employed whether  
46 written or oral, past and current, to the extent that the board has the written  
47 contract or a record of the oral contract in its ~~possession,~~ possession.

48 (5) ~~current position,~~ Current position.

49 (6) ~~title,~~ Title.

50 (7) ~~current salary,~~ Current salary.

1           (8)   ~~date~~Date and amount of ~~most recent~~each increase or decrease in ~~salary;~~  
2           salary with that community college.

3           (9)   ~~date~~Date and category of position classification change with that community  
4           college of most recent in each of the following categories:

5           a.   ~~promotion;~~ Promotion.

6           b.   ~~demotion;~~ Demotion.

7           c.   ~~transfer;~~ Transfer.

8           d.   ~~suspension;~~ Suspension.

9           e.   ~~separation;~~ Separation.

10          f.   ~~or other~~ Other change in position ~~classification;~~ and classification.

11          (10) ~~the~~ The office or station to which the employee is currently assigned.

12          (b)   For the purposes of this section, the term "salary" includes pay, benefits, incentives,  
13          bonuses, and deferred and all other forms of compensation paid by the employing entity.

14          (c)   Subject only to rules and regulations for the safekeeping of records adopted by the  
15          board of trustees, every person having custody of the records shall permit them to be inspected  
16          and examined and copies made by any person during regular business hours. Any person who  
17          is denied access to any record for the purpose of inspecting, examining or copying the record  
18          shall have a right to compel compliance with the provisions of this section by application to a  
19          court of competent jurisdiction for a writ of mandamus or other appropriate relief."

20          **SECTION 17.(d)** G.S. 122C-158(b) reads as rewritten:

21          "(b)   The following information with respect to each employee is a matter of public  
22          record:

23           (1)   ~~name;~~ Name.

24           (2)   ~~age;~~ Age.

25           (3)   ~~date~~Date of original employment or appointment to the area  
26           ~~authority;~~ authority.

27           (4)   ~~the~~ The terms of any contract by which the employee is employed whether  
28           written or oral, past and current, to the extent that the agency has the written  
29           contract or a record of the oral contract in its ~~possession;~~ possession.

30           (5)   ~~current position~~ Current position.

31           (6)   ~~title;~~ Title.

32           (7)   ~~current salary;~~ Current salary.

33           (8)   ~~date~~Date and amount of ~~most recent~~each increase or decrease in ~~salary;~~  
34           salary with that area authority.

35           (9)   ~~date~~ Date and category of position classification change with that area  
36           authority of the most recent in each of the following categories:

37           a.   ~~promotion;~~ Promotion.

38           b.   ~~demotion;~~ Demotion.

39           c.   ~~transfer;~~ Transfer.

40           d.   ~~suspension;~~ Suspension.

41           e.   ~~separation;~~ Separation.

42           f.   ~~or other~~ Other change in position ~~classification;~~ and classification.

43          (10) ~~the~~ The office to which the employee is currently assigned.

44          (b1)  For the purposes of this subsection, the term "salary" includes pay, benefits,  
45          incentives, bonuses, and deferred and all other forms of compensation paid by the employing  
46          entity.

47          (b2)  The area authority shall determine in what form and by whom this information will  
48          be maintained. Any person may have access to this information for the purpose of inspection,  
49          examination, and copying during regular business hours, subject only to rules for the  
50          safekeeping of public records as the area authority may have adopted. Any person denied

1 access to this information may apply to the appropriate division of the General Court of Justice  
2 for an order compelling disclosure, and the court shall have jurisdiction to issue these orders."

3 **SECTION 17.(e)** G.S. 153A-98(b) reads as rewritten:

4 "(b) The following information with respect to each county employee is a matter of  
5 public record:

6 (1) ~~name;~~ Name.

7 (2) ~~age;~~ Age.

8 (3) ~~date~~ Date of original employment or appointment to the county  
9 ~~service;~~ service.

10 (4) ~~the~~ The terms of any contract by which the employee is employed whether  
11 written or oral, past and current, to the extent that the county has the written  
12 contract or a record of the oral contract in its ~~possession;~~ possession.

13 (5) ~~current position~~ Current position.

14 (6) ~~title;~~ Title.

15 (7) ~~current salary;~~ Current salary.

16 (8) ~~date~~ Date and amount of ~~the most recent~~ each increase or decrease in ~~salary;~~  
17 salary with that county.

18 (9) ~~date~~ Date and category of change in position classification with that county  
19 ~~of the most recent~~ in each of the following categories:

20 a. ~~promotion;~~ Promotion.

21 b. ~~demotion;~~ Demotion.

22 c. ~~transfer;~~ Transfer.

23 d. ~~suspension;~~ Suspension.

24 e. ~~separation~~ Separation.

25 f. ~~or other~~ Other change in position ~~classification; and~~ classification.

26 (10) ~~the~~ The office to which the employee is currently assigned.

27 (b1) For the purposes of this subsection, the term "salary" includes pay, benefits,  
28 incentives, bonuses, and deferred and all other forms of compensation paid by the employing  
29 entity.

30 (b2) The board of county commissioners shall determine in what form and by whom this  
31 information will be maintained. Any person may have access to this information for the  
32 purpose of inspection, examination, and copying, during regular business hours, subject only to  
33 such rules and regulations for the safekeeping of public records as the board of commissioners  
34 may have adopted. Any person denied access to this information may apply to the appropriate  
35 division of the General Court of Justice for an order compelling disclosure, and the court shall  
36 have jurisdiction to issue such orders."

37 **SECTION 17.(f)** G.S. 160A-168(b) reads as rewritten:

38 "(b) The following information with respect to each city employee is a matter of public  
39 record:

40 (1) ~~name;~~ Name.

41 (2) ~~age;~~ Age.

42 (3) ~~date~~ Date of original employment or appointment to the ~~service;~~ service.

43 (4) ~~the~~ The terms of any contract by which the employee is employed whether  
44 written or oral, past and current, to the extent that the city has the written  
45 contract or a record of the oral contract in its ~~possession;~~ possession.

46 (5) ~~current position~~ Current position.

47 (6) ~~title;~~ Title.

48 (7) ~~current salary;~~ Current salary.

49 (8) ~~date~~ Date and amount of ~~the most recent~~ each increase or decrease in ~~salary;~~  
50 salary with that municipality.

(9) ~~date~~Date and category of change in position classification with that municipality of the most recent in each of the following categories:

a. ~~promotion,~~Promotion.

b. ~~demotion,~~Demotion.

c. ~~transfer,~~Transfer.

d. ~~suspension,~~Suspension.

e. ~~separation,~~Separation.

f. ~~or other~~Other change in position ~~classification;~~ andclassification.

(10) ~~the~~The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The city council shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the city council may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders."

**SECTION 17.(g)** G.S. 162A-6.1(b) reads as rewritten:

"(b) The following information with respect to each authority employee is a matter of public record:

(1) ~~name;~~Name.

(2) ~~age;~~Age.

(3) ~~date~~Date of original employment or appointment to the ~~service;~~service.

(4) ~~the~~The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the authority has the written contract or a record of the oral contract in its ~~possession;~~possession.

(5) ~~current position~~Current position.

(6) ~~title;~~Title.

(7) ~~current salary;~~Current salary.

(8) ~~date~~Date and amount of the ~~most recent~~each increase or decrease in ~~salary;~~salary with that authority.

(9) ~~date~~Date and category of position classification change with that authority of the most recent in each of the following categories:

a. ~~promotion,~~Promotion.

b. ~~demotion,~~Demotion.

c. ~~transfer,~~Transfer.

d. ~~suspension,~~Suspension.

e. ~~separation,~~Separation.

f. ~~or other~~Other change in position ~~classification;~~ andclassification.

(10) ~~the~~The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The authority shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the authority may have adopted. Any person denied access to this information may apply to the appropriate division of the General

1 Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to  
2 issue such orders."

3 **SECTION 17.(g)** This section becomes effective October 1, 2010.

4 **SECTION 18.(a)** G.S. 120C-600 is amended by adding a new subsection to read:

5 "(d) The Secretary shall publish annual statistics on complaints received and systematic  
6 reviews conducted under this section, including the number of systematic reviews, the number  
7 of complaints, the number of apparent violations of this Chapter referred to a district attorney,  
8 the number of complaints dismissed, and the number and age of complaints pending. Subject to  
9 the provisions of Chapter 132 of the General Statutes, the levy of all civil fines, including the  
10 amount of the fine and the identity of the person or governmental unit against whom it was  
11 levied, shall be a public record as defined in G.S. 132-1(a)."

12 **SECTION 18.(b)** G.S. 120C-601 is amended by adding a new subsection to read:

13 "(d) The Commission shall publish annual statistics on complaints, including the number  
14 of complaints, the number of apparent violations of this Chapter referred to a district attorney,  
15 the number of dismissals, and the number and age of complaints pending."

16 **SECTION 19.(a)** Article 5 of Chapter 7A of the General Statutes is amended by  
17 adding a new section to read:

18 **§ 7A-38.3E. Mediation of public records disputes.**

19 (a) Voluntary Mediation. – The parties to a public records dispute under Chapter 132 of  
20 the General Statutes may agree at anytime prior to filing a civil action under Chapter 132 of the  
21 General Statutes to mediation of the dispute under the provisions of this section. Mediation of a  
22 public records dispute shall be initiated by filing a request for mediation with the clerk of  
23 superior court in a county in which the action may be brought.

24 (b) Mandatory Mediation. – Subsequent to filing a civil action under Chapter 132 of the  
25 General Statutes, a person shall initiate mediation pursuant to this section. Such mediation shall  
26 be initiated no later than 30 days from the filing of responsive pleadings with the clerk in the  
27 county where the action is filed.

28 (c) Initiation of Mediation. – The Administrative Office of the Courts shall prescribe a  
29 request for mediation form. The party filing the request for mediation shall mail a copy of the  
30 request by certified mail, return receipt requested, to each party to the dispute. The clerk shall  
31 provide each party with a list of mediators certified by the Dispute Resolution Commission. If  
32 the parties agree in writing to the selection of a mediator from that list, the clerk shall appoint  
33 that mediator selected by the parties. If the parties do not agree on the selection of a mediator,  
34 the party filing the request for mediation shall bring the matter to the attention of the clerk, and  
35 a mediator shall be appointed by the senior resident superior court judge. The clerk shall notify  
36 the mediator and the parties of the appointment of the mediator.

37 (d) Mediation Procedure. – Except as otherwise expressly provided in this section,  
38 mediation under this section shall be conducted in accordance with the provisions for mediated  
39 settlement of civil cases in G.S. 7A-38.1 and G.S. 7A-38.2 and rules and standards adopted  
40 pursuant to those sections. The Supreme Court may adopt additional rules and standards to  
41 implement this section, including an exemption from the provisions of G.S. 7A-38.1 for cases  
42 in which mediation was attempted under this section.

43 (e) Waiver of Mediation. – The parties to the dispute may waive the mediation required  
44 by this section by informing the mediator of the parties' waiver in writing. No costs shall be  
45 assessed to any party if all parties waive mediation prior to the occurrence of an initial  
46 mediation meeting.

47 (f) Certification That Mediation Concluded. – Immediately upon a waiver of mediation  
48 under subsection (e) of this section or upon the conclusion of mediation, the mediator shall  
49 prepare a certification stating the date on which the mediation was concluded and the general  
50 results of the mediation, including, as applicable, that the parties waived the mediation, that an  
51 agreement was reached, that mediation was attempted but an agreement was not reached, or

1 that one or more parties, to be specified in the certification, failed or refused without good  
2 cause to attend one or more mediation meetings or otherwise participate in the mediation. The  
3 mediator shall file the original of the certification with the clerk and provide a copy to each  
4 party.

5 (g) Time Periods Tolled. – Time periods relating to the filing of a claim or the taking of  
6 other action with respect to a public records dispute, including any applicable statutes of  
7 limitations, shall be tolled upon the filing of a request for mediation under this section, until 30  
8 days after the date on which the mediation is concluded as set forth in the mediator's  
9 certification, or if the mediator fails to set forth such date, until 30 days after the filing of the  
10 certification under subsection (f) of this section.

11 (h) Nothing in this section shall be prevent a party seeking production of public records  
12 from seeking injunctive or other relief, including production of public records prior to any  
13 scheduled mediation."

14 **SECTION 19.(b)** G.S. 7A-38.2(a) reads as rewritten:

15 "(a) The Supreme Court may adopt standards of conduct for mediators and other neutrals  
16 who are certified or otherwise qualified pursuant to G.S. 7A-38.1, 7A-38.3, 7A-38.3B,  
17 7A-38.3D, 7A-38.3E, and 7A-38.4A, or who participate in proceedings conducted pursuant to  
18 those sections. The standards may also regulate mediator and other neutral training programs.  
19 The Supreme Court may adopt procedures for the enforcement of those standards."

20 **SECTION 19.(c)** G.S. 132-9 reads as rewritten:

21 "**§ 132-9. Access to records.**

22 (a) Any person who is denied access to public records for purposes of inspection and  
23 examination, or who is denied copies of public records, may apply to the appropriate division  
24 of the General Court of Justice for an order compelling disclosure or copying, and the court  
25 shall have jurisdiction to issue such ~~orders.~~ orders if the person has complied with  
26 G.S. 7A-38.3E. Actions brought pursuant to this section shall be set down for immediate  
27 hearing, and subsequent proceedings in such actions shall be accorded priority by the trial and  
28 appellate courts.

29 (b) In an action to compel disclosure of public records which have been withheld  
30 pursuant to the provisions of G.S. 132-6 concerning public records relating to the proposed  
31 expansion or location of particular businesses and industrial projects, the burden shall be on the  
32 custodian withholding the records to show that disclosure would frustrate the purpose of  
33 attracting that particular business or industrial project.

34 (c) In any action brought pursuant to this section in which a party successfully compels  
35 the disclosure of public records, the court shall allow ~~the prevailing a party seeking disclosure~~  
36 of public records who substantially prevails to recover its reasonable attorneys' fees if attributed  
37 to those public records, ~~unless the court finds the agency acted with substantial justification in~~  
38 ~~denying access to the public records or the court finds circumstances that would make the~~  
39 ~~award of attorneys' fees unjust records.~~ The court may not assess attorneys' fees against the  
40 governmental body or governmental unit if the court finds that the governmental body or  
41 governmental unit acted in reasonable reliance on any of the following:

42 (1) A judgment or an order of a court applicable to the governmental unit or  
43 governmental body.

44 (2) The published opinion of an appellate court, an order of the North Carolina  
45 Business Court, or a final order of the Trial Division of the General Court of  
46 Justice.

47 (3) A written opinion, decision, or letter of the Attorney General.

48 Any attorneys' fees assessed against a public agency under this section shall be charged  
49 against the operating expenses of the agency; provided, however, that the court may order that  
50 all or any portion of any attorneys' fees so assessed be paid personally by any public employee  
51 or public official found by the court to have knowingly or intentionally committed, caused,



1 permitted, suborned, or participated in a violation of this Article. No order against any public  
2 employee or public official shall issue in any case where the public employee or public official  
3 seeks the advice of an attorney and such advice is followed.

4 (d) If the court determines that an action brought pursuant to this section was filed in  
5 bad faith or was frivolous, the court shall assess a reasonable attorney's fee against the person  
6 or persons instituting the action and award it to the public agency as part of the costs."

7 **SECTION 19.(d)** This section becomes effective October 1, 2010, and applies to  
8 actions filed on or after that date.

9 **SECTION 20.(a)** G.S. 138A-14(b) reads as rewritten:

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

17 **SECTION 20.(b)** G.S. 138A-24(c2) is recodified as G.S. 138A-22(c2).

18 **SECTION 20.(c)** The catch line to G.S. 138A-37 of the General Statutes reads as  
19 rewritten:

20 "**§ 138A-37. Legislator participation in official legislative actions.**"

21 **SECTION 20.(d)** G.S. 138A-38(a)(6) and (7) read as rewritten:

22 "**§ 138A-38. Permitted participation exception.**

23 (a) Notwithstanding G.S. 138A-36 and G.S. 138A-37, a covered person may participate  
24 in an official action or legislative action under any of the following circumstances except as  
25 specifically limited:

26 ...

27 (6) When a public or legislative body records in its minutes that it cannot obtain  
28 a quorum in order to take the official or legislative action because the  
29 covered person is disqualified from acting under ~~G.S. 130-36~~, G.S. 138A-36,  
30 G.S. 138A-37, or this section, the covered person may be counted for  
31 purposes of a quorum, but shall otherwise abstain from taking any further  
32 action.

33 (7) When a public servant notifies the Commission in writing that the public  
34 ~~servant judicial employee, servant,~~ servant, or someone whom the public servant  
35 appoints to act in the public servant's stead, or both, are the only individuals  
36 having legal authority to take an official action, and the public servant  
37 discloses in writing the circumstances and nature of the conflict of interest."

38 **SECTION 20.(e)** G.S. 120-104(c) reads as rewritten:

39 "(c) A legislator who acts in reliance on a formal advisory opinion issued by the  
40 Committee under this section shall be entitled to the immunity granted under ~~G.S. 138A-13(b)~~.  
41 G.S. 138A-13(b1)."

42 **SECTION 20.(f)** G.S. 120C-800(b) reads as rewritten:

43 "(b) If the person making the reportable expenditure in subsection (a) of this section is  
44 outside North Carolina, and the designated individual accepting the reportable expenditure is  
45 also outside North Carolina at the time the designated individual accepts the reportable  
46 expenditure, then the designated individual accepting the reportable expenditure shall be  
47 responsible for filing the report or reporting the information in the designated individual's  
48 statement of economic interest in accordance with ~~G.S. 138A-24(a)(2)~~.G.S. 138A-24(a)(8)."

49 **SECTION 21.(a)** G.S. 138A-12(b)(2) reads as rewritten:

50 "(2) For legislators, the application ~~of~~or alleged violations of Part 1 of Article 14  
51 of Chapter 120 of the General Statutes."

1           **SECTION 21.(b)** G.S. 138A-12(c)(1) reads as rewritten:

2           "(1) A sworn complaint filed under this Chapter shall state the name, address,  
3           and telephone number of the individual filing the complaint, the name and  
4           job title or appointive position of the covered person or legislative employee  
5           against whom the complaint is filed, and a concise statement of the nature of  
6           the complaint and specific facts indicating that a violation of this Chapter or  
7           Chapter 120 of the General Statutes or G.S. 126-14 or the criminal law in the  
8           performance of that individual's official duties has occurred, the date the  
9           alleged violation occurred, and either (i) that the contents of the complaint  
10          are within the knowledge of the individual verifying the complaint, or (ii)  
11          the basis upon which the individual verifying the complaint believes the  
12          allegations to be true."

13          **SECTION 21.(c)** G.S. 138A-12(c)(5) reads as rewritten:

14          (5) The Commission shall send a copy of the complaint to the covered person or  
15          legislative employee who is the subject of the complaint and the employing  
16          entity, within ~~30-10~~ business days of the filing.

17          **SECTION 21.(d)** G.S. 138A-12(d) reads as rewritten:

18          "(d) Conduct of Inquiry of Complaints by the Commission. – The Commission shall  
19          conduct an inquiry into all complaints properly before the Commission in a timely manner. The  
20          Commission shall initiate an inquiry into a complaint within ~~60-10~~ business days of the filing of  
21          the complaint. The Commission is authorized to initiate inquiries upon request of any member  
22          of the Commission if there is reason to believe that a covered person or legislative employee  
23          has or may have violated this Chapter. Commission-initiated complaint inquiries under this  
24          section shall be initiated within two years of the date the Commission knew of the conduct  
25          upon which the complaint is based, except when the conduct is material to the continuing  
26          conduct of the duties in office. In determining whether there is reason to believe that a violation  
27          has or may have occurred, a member of the Commission may take general notice of available  
28          information even if not formally provided to the Commission in the form of a complaint. The  
29          Commission may utilize the services of a hired investigator when conducting inquiries."

30          **SECTION 21.(e)** G.S. 138A-12(f) reads as rewritten:

31          "(f) Dismissal of Complaint After Preliminary Inquiry. – The Commission shall  
32          conclude the preliminary inquiry within 20 business days. The Commission shall dismiss the  
33          complaint. If the Commission determines at the end of its preliminary inquiry-inquiry, the  
34          Commission determines that any of the following apply:

35          ~~(i)(1) the~~The individual who is the subject of the complaint is not a covered person  
36          or legislative employee subject to the Commission's jurisdiction and  
37          authority under this ~~Chapter, Chapter.~~ or

38          ~~(ii)(2) the~~The complaint does not allege facts sufficient to constitute a violation  
39          within the jurisdiction of the Commission under subsection (b) of this  
40          ~~section, the Commission shall dismiss the complaint.~~section.

41          (3) The complaint is determined to be frivolous or brought in bad faith."

42          **SECTION 21.(f)** G.S. 120-103.1(c) reads as rewritten:

43          "(c) Investigation of Complaints. – The Committee shall investigate all complaints  
44          properly before the Committee in a timely manner. Within ~~60-10~~ business days of receiving a  
45          complaint or a referral of a complaint to the Committee, the Committee shall do at least one of  
46          the following:

47          (1) Dismiss the complaint.

48          (2) Initiate a preliminary investigation of the complaint.

49          (3) Refer the complaint for further investigation and a hearing in accordance  
50          with subsection (i) of this section.

- 1 (4) Make recommendations to the house in which the legislator who is the  
2 subject of the complaint is a member without further investigation, if the  
3 referral is from the State Ethics Commission."

4 **SECTION 21.(g)** G.S. 120-103.1(c1) reads as rewritten:

5 "(c1) Preliminary Investigation. —The Committee may initiate a preliminary investigation  
6 if it determines that the complaint alleges facts sufficient to constitute a violation of matters  
7 over which the Committee has jurisdiction as set forth in subsection (a) of this section. In  
8 determining whether there is reason to believe that a violation has or may have occurred, a  
9 member of the Committee may take general notice of available information even if not  
10 formally provided to the Committee in the form of a complaint. The Committee may utilize the  
11 services of a hired investigator when conducting investigations. The Committee shall provide  
12 written notification of the initiation of an investigation under this section to the legislator who  
13 is the subject of the complaint within 10 days of the date of the Committee's decision to initiate  
14 an investigation. The Commission shall conclude the preliminary inquiry within 20 business  
15 days."

16 **SECTION 22.(a)** The introductory language in Section 1 of S.L. 2009-129 reads as  
17 rewritten:

18 "~~SECTION 1. G.S. 120-29(2)~~ G.S. 120-129(2) reads as rewritten:"

19 **SECTION 22.(b)** Article 17 of Chapter 120 of the General Statutes, as amended by  
20 Section 23.(a) of this act, reads as rewritten:

21 "Article 17.

22 "Confidentiality of Legislative Communications.

23 **"§ 120-129. Definitions.**

24 As used in this Article:

- 25 (1) "Document" means all records, papers, letters, maps, books, photographs,  
26 films, sound recordings, magnetic or other tapes, electronic data-processing  
27 records, artifacts, or other documentary material regardless of physical form  
28 or characteristics.
- 29 (1a) "Legislative commission" means any commission or committee which the  
30 Legislative Services Commission is directed or authorized to staff by law or  
31 resolution and which it does, in fact, staff.
- 32 (2) "Legislative employee" means employees and officers of the General  
33 Assembly, consultants and counsel to members and committees of either  
34 house of the General Assembly or of legislative commissions who are paid  
35 by State funds, students at an accredited law school while in an externship  
36 program at the General Assembly approved by the Legislative Services  
37 Commission, and employees of the School of Government at the University  
38 of North Carolina at Chapel Hill; but does not mean legislators and members  
39 of the Council of State.
- 40 (3) "Legislator" means a member-elect, member-designate, or member of the  
41 North Carolina Senate or House of Representatives.

42 **"§ 120-130. Drafting and information requests to legislative ~~employees.employees;~~**  
43 **documents.**

44 (a) A drafting request made to a legislative employee from a legislator is confidential.  
45 Neither the identity of the legislator making the request nor, except to the extent necessary to  
46 answer the request, the existence of the request may be revealed to any person who is not a  
47 legislative employee without the consent of the legislator.

48 (b) An information request made to a legislative employee from a legislator is  
49 confidential. Neither the identity of the legislator making the request nor, except to the extent  
50 necessary to answer the request, the existence of the request may be revealed to any person  
51 who is not a legislative employee without the consent of the legislator. Notwithstanding the

1 preceding sentences of this subsection, the periodic publication by the Fiscal Research Division  
2 of the Legislative Services Office of a list of information requests is not prohibited, if the  
3 identity of the legislator making the request is not revealed.

4 (c) ~~Any Documents submitted to a legislator by another person or any supporting~~  
5 ~~documents submitted or caused to be submitted to a legislative employee by a legislator in~~  
6 ~~connection with a drafting or information request are confidential. A document that is a public~~  
7 ~~record shall continue to be treated as a public record, notwithstanding its inclusion as a~~  
8 ~~supporting document to a drafting or information request. Except to the extent necessary to~~  
9 ~~answer the request, neither the document nor copies of it, nor the identity of the person, firm, or~~  
10 ~~association producing it, may be provided to any person who is not a legislative employee~~  
11 ~~without the consent of the legislator.~~

12 (d) ~~Drafting requests, or information requests or requests, and supporting documents~~  
13 ~~submitted under subsection (c) of this section are not "public records" as defined by G.S. 132-1.~~  
14 ~~A document that is a public record shall continue to be treated as a public record,~~  
15 ~~notwithstanding its inclusion as a supporting document to a drafting or information request.~~

16 **"§ 120-131. Documents produced by legislative employees.**

17 (a) Documents prepared by legislative employees upon the request of legislators are  
18 confidential. Except as provided in subsection (b) of this section, the existence of the document  
19 may not be revealed nor may a copy of the document be provided to any person who is not a  
20 legislative employee without the consent of the legislator.

21 (b) A document prepared by a legislative employee upon the request of a legislator  
22 becomes available to the public when the document is a:

- 23 (1) Bill or resolution and it has been introduced;
- 24 (2) Proposed amendment or committee substitute for a bill or resolution and it  
25 has been offered at a committee meeting or on the floor of a house;
- 26 (3) Proposed conference committee report and it has been offered at a joint  
27 meeting of the conference committees; or
- 28 (4) Bill, resolution, memorandum, written analysis, letter, or other document  
29 resulting from a drafting or information request and it has been distributed at  
30 a legislative commission or standing committee or subcommittee meeting  
31 not held in executive session, closed session, or on the floor of a house.

32 (b1) A document prepared by a legislative employee upon the request of any legislator,  
33 that pursuant to this Article does not become available to the public, is not a "public record," as  
34 defined by G.S. 132-1.

35 (c) This section does not prohibit the dissemination of information or language  
36 contained in any document which has been prepared by a legislative employee in response to a  
37 substantially similar request from another legislator, provided that the identity of the requesting  
38 legislator and the fact that ~~he the legislator~~ had made such a request not be divulged.

39 **"§ 120-131.1. Requests from legislative employees for ~~assistance in the preparation of~~**  
40 **~~fiscal notes and evaluation reports.~~ assistance.**

41 (a) A request, including any ~~accompanying supporting~~ documents, made to an agency  
42 employee by a legislative employee of the Fiscal Research Division for assistance in the  
43 preparation of a fiscal note is confidential. An agency employee who receives such a request or  
44 who learns of such a request made to another agency employee ~~of his or her agency~~ shall reveal  
45 the existence of the request only to other agency employees of the agency to the extent that it is  
46 necessary to respond to the request, and to the agency employee's supervisor and to the Office  
47 of State Budget and Management. All documents prepared by the agency employee in response  
48 to the request of the Fiscal Research Division are also confidential and shall be kept  
49 confidential in the same manner as the original request, except that documents submitted to the  
50 Fiscal Research Division in response to the request cease to be confidential under this section  
51 when the Fiscal Research Division releases a fiscal note based on the documents.

1 (a1) A request, and any ~~accompanying~~ supporting documents, made to an agency  
2 employee by a legislative employee of the Program Evaluation Division for assistance in the  
3 preparation of an evaluation report is confidential. The request and any ~~accompanying~~  
4 supporting documents are not "public records" as defined by G.S. 132-1. An agency employee  
5 who receives a request under this subsection or who learns of such a request made to another  
6 agency employee ~~of his or her agency~~ may reveal the existence of the request to other agency  
7 employees to the extent that it is necessary to respond to the request and to the agency  
8 employee's supervisor. All documents prepared by the agency employee in response to the  
9 request of a legislative employee of the Program Evaluation Division are confidential, shall be  
10 kept confidential in the same manner as the original request, and are not "public records" as  
11 defined in G.S. 132-1.

12 (a2) A request, and any supporting documents, made to an agency employee by a  
13 legislative employee pursuant to G.S. 120-130 or G.S. 120-131 is confidential. An agency  
14 employee who receives a request or who learns of a request made to another agency employee  
15 under this subsection shall reveal the existence of the request only to other agency employees  
16 to the extent that it is necessary to respond to the request. An agency employee may reveal the  
17 request to an agency supervisor. All documents prepared by the agency employee in response  
18 to the request of a legislative employee under this subsection are also confidential and shall be  
19 kept confidential in the same manner as the original request. The request, any supporting  
20 documents to the request, and any documents prepared by the agency employee in response to a  
21 request under this subsection are not "public records" as defined by G.S. 132-1.

22 (a3) Requests and documents confidential under this section shall bear an indication on  
23 the face of the request or document that the request or document is confidential and not a public  
24 record pursuant to this section.

25 (b) As used in this section, "agency employee" means an employee or officer of every  
26 agency of North Carolina government or its subdivisions, including every public office, public  
27 officer or official (State or local, elected or appointed), institution, board, commission, bureau,  
28 council, department, authority, or other unit of government of the State or of any county, unit,  
29 special district, or other political subdivision of government.

30 (c) Violation of this section ~~may be grounds for disciplinary action.~~ shall be subject to  
31 penalties as set forth in G.S. 120-134.

32 **"§ 120-132. Testimony by legislative employees.**

33 (a) Except as provided in subsections (b) and (c) of this section, ~~No~~ no present or  
34 former legislative employees ~~employee~~ may be required to disclose any information that the  
35 individual, while employed or retained by the State, may have acquired:

- 36 (1) In a standing, select, or conference committee or subcommittee of either  
37 house of the General Assembly or a legislative commission;
- 38 (2) On the floor of either house of the General Assembly, ~~or~~ in any office of a  
39 legislator, legislator, or at any other location of the State legislative buildings  
40 and grounds as defined in G.S. 120-32.1(d);
- 41 (3) As a result of communications that are confidential under G.S. 120-130 and  
42 G.S. 120-131.

43 (b) A present or former legislative employee may disclose information acquired under  
44 subsection (a) of this section that would be reflected in the official public record or was  
45 otherwise publicly disseminated.

46 (c) Notwithstanding the provisions of the preceding sentence, Subject to G.S. 120-9,  
47 G.S. 120-133, and the common law of legislative privilege and legislative immunity, the  
48 presiding judge of a court of competent jurisdiction may compel that disclosure, disclosure of  
49 information acquired under subsection (a) of this section if in his the judge's opinion, the same  
50 disclosure is necessary to a proper administration of justice.

51 **"§ 120-133. Redistricting communications.**

1 Notwithstanding any other provision of law, all drafting and information requests to  
2 legislative employees and documents prepared by legislative employees for legislators  
3 concerning redistricting the North Carolina General Assembly or the Congressional Districts  
4 are no longer confidential and become public records upon the act establishing the relevant  
5 district plan becoming law. Present and former legislative employees may be required to  
6 disclose information otherwise protected by G.S. 120-132 concerning redistricting the North  
7 Carolina General Assembly or the Congressional Districts upon the act establishing the relevant  
8 district plan becoming law.

9 **"§ 120-134. Penalty.**

10 Violation of any provision of this Article shall be grounds for disciplinary action in the case  
11 of current legislative, executive, or judicial branch employees, for referral to the academic  
12 institution for appropriate discipline in the case of law student externs, and for removal from  
13 office in the case of public officers. Violation of any provisions of this Article by a legislative  
14 employee who is a law student extern at the time of the violation shall be referred to the  
15 academic institution for appropriate discipline, and the Legislative Services Commission may  
16 terminate the externship. No criminal penalty shall attach for any violation of this Article.

17 **"§ 120-135. Sharing confidential information amongst legislative employees.**

18 A legislative employee hired by, supervised by, or assigned to a member shall be treated as  
19 the member for purposes of legislative confidentiality."

20 **SECTION 22.(c)** Effective December 1, 2010, G.S. 120-134, as amended by  
21 Section 23.(b) of this act, reads as rewritten:

22 **"§ 120-134. Penalty.**

23 Violation of any provision of this Article shall be grounds for disciplinary action in the case  
24 of current legislative, executive or judicial branch employees, and for removal from office in  
25 the case of public officers. Violation of any provisions of this Article by a legislative employee  
26 who is a law student extern at the time of the violation shall be referred to the academic  
27 institution for appropriate discipline, and the Legislative Services Commission may terminate  
28 the externship. Any other person who willfully violates any provision of this Article shall be  
29 guilty of a Class 3 misdemeanor. No other criminal penalty shall attach for any violation of this  
30 Article."

31 **SECTION 22.(d)** Section 22.(c) of this section becomes effective December 1,  
32 2010, and applies to offenses committed on or after that date. The remainder of this section  
33 becomes effective October 1, 2010.

34 **SECTION 23.** Except as otherwise provided, this act is effective when it becomes  
35 law.